

**MINUTES OF THE  
MIAMI COUNTY PLANNING COMMISSION  
JUNE 2, 2020**

*(Meeting conducted remotely, via Zoom conference)*

**ATTENDANCE**

<b>CHAIR:</b>	Absent
<b>VICE-CHAIR:</b>	John Menefee
<b>PLANNING COMMISSION MEMBERS:</b>	Kelli Broers, Joshua Brown, Kevin Collins, Phil Elliott, Bret Manchester
<b>ABSENT MEMBERS:</b>	Randy Kitchen; Mark Oehlert, Chair; and Mark Ross
<b>EX-OFFICIO MEMBERS:</b>	None attending
<b>PLANNING DIRECTOR:</b>	Teresa Reeves
<b>COUNTY COUNSELOR:</b>	David Heger
<b>PLANNER:</b>	Kenneth Cook
<b>PC SECRETARY:</b>	Angie Baumann
<b>ECONOMIC DEVELOPMENT</b>	None attending
<b>ROAD &amp; BRIDGE DEPT.</b>	J.R. McMahan
<b>COUNTY COMMISSION:</b>	None attending
<b>COUNTY CLERK:</b>	None attending
<b>PRESS:</b>	None attending

## MINUTES

JUNE 2, 2020

### MIAMI COUNTY PLANNING COMMISSION

#### CALL TO ORDER

Vice-Chair John Menefee called the meeting to order at 7:04 p.m.

Menefee announced that the Agenda and Meeting Packet are available at [miamicountyks.org/AgendaCenter](http://miamicountyks.org/AgendaCenter). He explained the procedure for the public hearing and how public comment will be received. Menefee concluded that all votes of the Planning Commission will be conducted by roll call.

#### PLEDGE OF ALLEGIANCE

#### ROLL CALL

Roll Call was taken and six (6) members were present, constituting a quorum. Kitchen, Oehlert, and Ross were absent.

#### DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

None disclosed.

#### ADOPTION OF THE AGENDA

Menefee noted that Item B.1. was amended this afternoon to include 20001-SP (Site Plan), an application that was filed in conjunction with the Rezoning application.

Elliott moved to adopt the Agenda, as amended. Collins seconded, and the motion passed unanimously, 6-0.

#### CONSENT AGENDA

- **March 3, 2020** Planning Commission Minutes
- **20002-SUB: Broadwings 2<sup>nd</sup> Plat**  
Consideration of the Final Plat of Broadwings 2<sup>nd</sup> Plat, dividing approximately 60.01 acres into 4 lots ranging in size from 2.35 acres to 45.22 acres utilizing the Agricultural Preservation standards in the Countryside zoning district. The subject property is located at the Northwest corner of 239th and Pavilion Rd, in the SE¼ of Section 34, Township 15, Range 25, Wea Twp. Submitted by James and Ronna Grimes, property owners of record.

- **20003-SUB: Robindale II, a Replat of Part of Lot 1, and Lots 2 and 3, Robindale Subdivision**

Consideration of the Final Plat of Robindale II, a Replat of Part of Lot 1, Lots 2 and 3 of Robindale, and Boundary Line Adjustment 18006-BLA. Lot sizes are approximately 1.46 and 1.18 acres each. The purpose of the replat is to remove access restrictions located on Lots 2 and 3 of Robindale. The subject property is located approximately 200 and 400 feet south of 255<sup>th</sup> St on the east side of Old KC Rd, in the NE¼ of Section 15, Township 16S, Range 23E, Marysville Twp. Submitted by Abeln & Associates Architects, P.A.; Charles & Julie Klaasmeyer, property owners of record. This plat is filed in conjunction with the Rezoning request #20001-Z and Site Plan #20001-SP.

Collins moved to adopt the Consent Agenda as presented. Elliott seconded, and the motion passed unanimously, 6-0.

## **REGULAR AGENDA**

### **Old Business:**

None.

### **New Business:**

#### **Public Hearing 20001-Z: Countryside (CS) to Commercial (C-2), including 20001-SP (Site Plan)**

Teresa Reeves, Planning Director, introduced herself and presented the staff report for consideration of a request to rezone approximately 1.18 acres from Countryside (CS) to Commercial (C-2) for a commercial retail store, in accordance with Section 22 of the Miami County, Kansas Zoning Regulations. The subject property, also identified as Lot 3, Robindale Subdivision, is located on the east side of Old KC Rd, approximately 400 feet south of 255<sup>th</sup> St, in the townsite of Hillsdale, in the NE¼ of Section 15, Twp 16S, Range 23E, Marysville Twp. Submitted by Abeln & Associates Architects, P.A.; Charles & Julie Klaasmeyer, property owners of record.

Reeves noted that the Planning Commission just approved, on the Consent Agenda, the Replat of Robindale (20003-SUB: Robindale II). She stated that as part of the staff report for the Rezoning application, she also included the related Site Plan application (20001-SP). She explained that although the staff report addresses both the Rezoning and Site Plan applications, they are two separate applications and will require separate and formal approval by the Planning Commission.

Reeves then highlighted various aspects of the Site Plan (20001-SP), including access to the property; screening; parking; size of the proposed building; loading dock; stormwater detention pond; lighting; the sign—which will require a sign application; and fire protection. With regard to stormwater, she pointed out that the Stormwater Plan was amended and submitted this afternoon, and has been incorporated into the published meeting packet as Pages 113 through 132.

She stated that three different engineers have been involved in this project for the purpose of ensuring there will be no increased stormwater from the subject property to area residents. Reeves further noted that later this afternoon, staff received a letter from Jim Ferguson, contracted engineer with IBTS, approving the revised Stormwater Plan. It is Reeves's understanding that the result will be a net decrease in runoff to the area.

Reeves then covered zoning and land uses of surrounding property (a mixture of Countryside, Commercial, and Industrial), including the townsite of Hillsdale; the lot to the north of the subject property (Lot 2, Robindale); the Hillsdale School, which lies south and east of the subject property; and the BP gas station / liquor store and strip mall to the west of the subject property.

Reeves announced that staff received one email today, which was in opposition, and which will be read aloud during public comment.

Reeves then covered the following *Golden Criteria* for the Planning Commission to consider when making findings to approve or deny the requested Rezoning:

1. *Character of the neighborhood.*
2. *The zoning and uses of property nearby.*
3. *The suitability of the subject property to its present use.*
4. *The extent to which removal of the present zoning will detrimentally affect nearby property.*
5. *The length of time the subject property has remained vacant.*
6. *The relative gain to the public health, safety, and welfare by the destruction of the value of the nearby property as compared to the hardship imposed upon the individual landowner.*
7. *Whether the proposed rezoning would be consistent with the intent and purpose of the Zoning Regulations.*
8. *The recommendations of the County's permanent or professional staff.*
9. *The conformance of the requested rezoning to the adopted Miami County Comprehensive Plan.*
10. *Such additional matters as may apply in individual circumstances.*

Reeves stated that the townsite of Hillsdale has existing stormwater problems; therefore, stormwater is a critical component of the Site Plan. She noted that as of the writing of the staff report the two engineers, who reviewed the Stormwater Plan on behalf of the County, had provided recommendations and comments regarding the Stormwater Plan. Included in those recommendations were a revised Stormwater Plan, and a Maintenance Covenant and Hold Harmless Agreement with regard to maintenance of the stormwater system.

She reported that the two engineers working with the County met today with the Applicant's engineer by Zoom conference, and that all of the stormwater issues have been resolved. She added that the recommended Maintenance Covenant and Hold Harmless Agreement are currently in draft form.

Reeves expressed that staff believes this proposal will bring a positive influence to the townsite of Hillsdale and will blend well with the surrounding mixed zoning/uses. She concluded that staff recommends approval of the Rezoning from Countryside (CS) to Commercial (C-2), based on the Findings and subject to the Conditions listed. Reeves added that staff also recommends approval of the Site Plan. She then read aloud the Findings and Conditions for approval. Reeves recommended removal of Condition No. 1 (revised Stormwater Management Plan), and that Condition No. 2 (Maintenance Covenant and Hold Harmless Agreement) should replace Condition No. 1.

Elliott asked for clarification regarding which of the two applications (the Rezoning or the Site Plan) require a public hearing.

Reeves answered that only the Rezoning requires a public hearing.

Menefee then invited the Applicant to speak.

Mark Abeln of Abeln & Associates Architects expressed that staff has made a good presentation. He stated that he is available to answer questions.

Manchester asked if the proposed building is primarily a grocery store.

Mr. Abeln answered that it is a general merchandise retail store.

Menefee opened the public hearing, and invited those attending by phone to make their comments first. There being no response, he extended the invitation twice more. There was no public comment from those attending by phone.

Menefee proceeded to open the public hearing to the remainder of the participants. There being no response, he extended the invitation twice more. There was no public comment from the remainder of the participants.

Menefee then asked Reeves to read aloud the comment letter that she had previously mentioned. Reeves read aloud the letter of opposition from the Louis Franke Family (*see letter on following page*).

Dear Members of the Planning Commission:

We are writing this letter in opposition to 20003-SUB, replat of Robindale subdivision, and 20001-Z, rezone from Countryside to Commercial of Robindale subdivision.

Our family has lived in the Hillsdale area for over 100 years. Throughout that time, many changes have come to the area. We've seen the closing of Coburn's store and the elevator, loss of the train depot, consolidation of the school with USD 368 and later closing due to reduced students, the building of Hillsdale Lake, 169 Hwy expanded to 4 lanes, opening of 2 gas stations and later the closing of one, new housing, opening of a sod harvesting manufacturing company and a liquor store, and loss of the post office. We know that change is inevitable, however, we do not believe that the rezoning and opening of a commercial retail store is in our best interests.

Aside from the stormwater issues that have been identified, what are the effects on the other businesses in Hillsdale? Staff believes this will be a "positive influence" and will "blend well with the surrounding mixed zoning/uses", but does any of the staff actually live in Hillsdale? Does staff know what goes on in Hillsdale on a regular basis? Will the gas station that has been for sale for at least 5 years ever be purchased? Will the remaining gas station/liquor store stay open once the new store opens? How long before they are driven out of business leaving another vacant building in the area?

BP and the liquor store already close at 8 pm at least 6 months of the year because there is not enough local business and lake traffic to make it worth staying open any later. The price of gasoline is determined by the wholesale delivery companies, not the gas stations themselves. There is no way to "mark-up" gasoline to make more profit. Gas stations stay open because of the other products they sell; they do not stay open on the pennies a gallon they make selling gasoline.

We also believe the projections for this type of retail facility are overblown. Hillsdale is smack in the middle between Spring Hill and Paola, and within 20 minutes of Louisburg and Olathe. A member of our family passes by the location in question every day to go to work in Paola. She also passes by an existing Dollar General, Wal-Mart and Price Chopper in town. Other locals will make the same trip or will pass by the Dollar General in Spring Hill or a Target, Wal-Mart, Walgreens or CVS, among numerous other stores, in another Johnson County city on their way to Hillsdale. Just because you have a large number of "pass-by trips" doesn't mean you're going to have business. In fact, it's not uncommon for people in our location to drive the 20 minutes to Johnson County because there are more shopping opportunities or because "we're already going there".

We know that the area has been classified as a Short Term Area of Regional Significance by the County. We know that with that tag comes the possibility for business and revenue to the county. But we do not believe that adding a Dollar General to the area is going to encourage other businesses, or residents, to move here or make the "positive influence" some think it will. We strongly urge you to vote NO on 20003-SUB, replat of Robindale subdivision, and 20001-Z, rezone from Countryside to Commercial of Robindale subdivision.

Thank you.

Louis Franke family  
Louis, Curtis, Craig, Kelly and Krista Franke  
Lifetime Hillsdale residents



Reeves noted that the Louis Franke Family had also submitted an article from *The Christian Science Monitor*; however, because it is copyrighted staff cannot share the article. She briefly described the article, noting that it discusses the economics of retail chains and their effect on local businesses and grocery stores when they move into towns. She added that the article mentions Dollar General as well as other big-box stores, such as Wal-Mart.

*Freeman, M. (2019, March 8). Sign of hope or worry? When the dollar store comes to town. Retrieved from <https://www.csmonitor.com/layout/set/print/Business/2019/0308/Sign-of-hope-or-worry-When-the-dollar-store-comes-to-town>*

Reeves noted that the Louis Franke Family is also objecting to the related subdivision plat application (20003-SUB: Robindale II). She explained that if a plat complies with all of the Regulations the Planning Commission does not have the right to deny it. She stated that the Louis Franke Family is essentially objecting to the Rezoning.

Menefee invited final public comment from all participants. There being no response, he extended the invitation twice more. There being no final public comment, Menefee closed the public hearing.

Menefee invited the Applicant to address the public comment heard this evening. Mr. Abeln declined.

Menefee then called for deliberation by the Planning Commission.

Broers asked staff if local businesses had received notice of the application and public hearing, or if notice was sent only to residences.

Reeves answered that notices were sent to all property owners located within 1000' of the subject property.

Collins commented that staff presented the case nicely, and handled the case well.

Menefee commented that the Rezoning seems straightforward, and announced that he is willing to entertain a motion regarding the request to rezone (20001-Z).

With regard to the Findings and Conditions listed in the staff report Elliott asked if the Findings pertain to the Rezoning; and if the Conditions pertain to the Site Plan.

Reeves confirmed.

Elliott moved to approve the Rezoning, based upon the Findings in the staff report. Broers seconded, and the motion passed unanimously, 6-0.

Reeves announced that this item will go before the Board of County Commissioners on June 24, 2020 at 1:00 p.m.

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## Findings

1. The proposed rezoning conforms to the Goals and Objectives of the Comprehensive Plan for Village Expansion Areas by locating commercial development where the existing highway, water, and sewer infrastructure can be utilized, which maximizes the existing public capital investment.
  2. The proposed Commercial (C-2) zoning is compatible with surrounding mixed uses in the Village / Area of Regional Significance.
  3. The existing road, water, and sewer infrastructure meets the standards of the Commercial (C-2) zoning district.
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### 20001-SP (Site Plan)

Reeves explained that, for simplicity, the Site Plan application was addressed in the staff report for the Rezoning application. She clarified that this is not a public hearing, and she welcomed questions and comments from the Planning Commission.

With regard to the approximate number of vehicle trips per week (2,000) to the retail facility Elliott commented that this number will obviously be higher as lake traffic increases. He then asked what the threshold would be for necessitating a deceleration lane or a turn lane for southbound traffic.

J.R. McMahon, Road & Bridge Director, responded that he discussed this with the Traffic Engineer, and we are well below such thresholds. He added that an issue in this area is not having enough space for a turn lane. He believes, however, that the “STOP” sign located just to the north will take care of a lot of traffic.

Elliott asked Reeves if screening around dumpsters is typically required. He expressed that having screening around the dumpsters means the trash will be at least somewhat confined to that area rather than being blown around by the wind. He commented that screening is also useful for concealing the dumpsters.

Reeves responded that screening can and should be required, and that fencing can be put around the dumpsters.

With regard to the roof-mounted HVAC, Elliott noted that without seeing an elevation he cannot determine if the parapets are tall enough to hide the units. He then asked if screening of the HVAC units is required.

Reeves responded that screening is not typically required. Kenneth Cook, Planner, commented that he does not recall seeing any provisions in the Zoning Regulations requiring screening of HVAC units.

Elliott noted that this is a discussion topic for the future.

Elliott then noted that the output of the detention pond is mechanical, which the Hold Harmless Agreement addresses. He further noted that a significant ditch running south and east of the subject property appears to take the stormwater, but he does not understand where the stormwater goes once it leaves the subject property.

Reeves answered that during today's Zoom conference with the engineers it was discussed that excess stormwater will be pumped into the Old KC Road right-of-way (ditch), will slowly secrete back to the south and east, and will eventually make its way onto the Hillsdale School property (detention pond).

Mr. Abeln confirmed that Reeves's understanding is correct. He explained that the stormwater will be pumped at a slow rate into the shallow ditch along Old KC Road, and will then trickle south and east until it reaches that detention pond.

Elliott noted that according to Page 60 of the meeting packet (Sheet C-1: Drainage Areas), the outlet is located in the northeast corner of the subject property.

Mr. Abeln clarified that it is located in the northwest corner of the subject property.

Reeves noted that several modifications have been made to the Stormwater Plan; and she referred Elliott to the amended meeting packet.

Elliott then noted that Page 60 of the meeting packet (Sheet C-1: Drainage Areas) clearly states "Direct Release".

Mr. Abeln clarified that "Direct Release" refers to stormwater that comes from the properties to the north, which will be directed away from the proposed building.

Elliott asked if the long pipe on the north side of the proposed building, which extends all the way to the ditch along Old KC Road, is where stormwater coming from the properties to the north will go.

Mr. Abeln confirmed, and added that none of that stormwater comes from the subject property.

McMahon reported that he asked the engineers why the outflow will be pumped to the southwest, since outflow from a detention would typically flow to the southeast. He explained that the majority of stormwater will be directed to the south and to the east; however, in a certain storm event—such as a 100-year storm—excess stormwater will be pumped to the west as an emergency overflow measure, and will be discharged and directed to the ditch along Old KC Road, where it will slowly discharge toward the Hillsdale School detention pond. McMahon then asked if one of the engineers could elaborate on today's discussion.

Mr. Abeln explained that the detention pond on the east side of the subject property is able to store stormwater from a 100-year storm event, followed by stormwater from a 10-year storm event. He stated that in such a case, excess stormwater will be released through an emergency overflow pipe on the south side of the subject property, will travel west, and will then be discharged into the shallow ditch along Old KC Road. While stormwater from a 100-year storm

and 10-year storm is being collected, a slow-release pump system will simultaneously pump the stormwater out to the northwest and discharge into the ditch. Stormwater from a 100-year storm will be discharged over an approximate 36-hour period. Stormwater from a 10-year storm will be discharged over an approximate 24-hour period. He explained that if the pump system fails; or, if the power goes out, the emergency overflow pipe on the south side of the subject property will discharge the excess stormwater into the ditch. Mr. Abeln further explained that as the water rises in the detention pond, it will flow out through the emergency overflow and travel to the west. He noted that if everything else fails during multiple flooding storms, a second emergency overflow will be discharged over the levee to the south and travel in its natural course. He added that the detention pond can store 100-year stormwater, plus 10-year stormwater and still will not discharge anywhere other than into the pump system.

Elliott asked if the curb inlets on the west side—by the driveway, and on the south side—in the middle of the parking lot, always drain to the west.

Mr. Abeln answered that the inlets are always draining to the detention pond to the east; and, once the pond fills after a 100-year flood, followed by a 10-year flood, the stormwater begins traveling to the west, but is still collecting in those inlets and will find its equilibrium/level as it's discharging into the ditch. The stormwater backs up uphill; and, once it backs up completely, it flows out to the west as an emergency overflow.

Elliott then asked if the regular flow after a normal rain is to the southeast or to the southwest.

Mr. Abeln responded that it goes through the pump system, out to the northwest to a level spreader—slowly trickling out of a rock bank at a rate equivalent to between two and three garden hoses. He explained that the stormwater is intended to be stored for as long as possible.

There were no additional questions for the applicant or for staff.

Menefee reminded the Planning Commissioners that Condition No. 1, which requires a revised Stormwater Management Plan, may be removed as this was completed this afternoon.

Reeves confirmed.

Menefee announced that he is willing to entertain a motion regarding 20001-SP (Site Plan).

Elliott moved to approve 20001-SP with Condition No. 1 being that a Maintenance Covenant, and Hold Harmless Agreement shall be submitted and approved prior to this request being forwarded to the Board of County Commissioners for consideration; and Condition No. 2 being that the Site Plan shall be updated to include screening, as approved by staff, around the dumpster area prior to this request being forwarded to the Board of County Commissioners for consideration. Collins seconded, and the motion passed unanimously, 6-0.

Reeves announced that the Planning Commission's approval of the Site Plan will not become effective until the Rezoning is approved by the Board of County Commissioners on June 24, 2020.

Reeves also explained how a valid protest petition may be filed.

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**Conditions**

- ~~1. The revised Stormwater Management Plan shall be submitted to the County for review and approval prior to this request being forwarded to the Board of County Commissioners for consideration.~~
  1. A Maintenance Covenant, and Hold Harmless Agreement shall be submitted and approved prior to this request being forwarded to the Board of County Commissioners for consideration.
  2. An updated Site Plan, which includes screening around the dumpster area, as approved by staff, shall be submitted prior to this request being forwarded to the Board of County Commissioners for consideration.
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**ANNOUNCEMENTS BY STAFF / COMMISSIONERS**

Elliott asked that the Building Codes or Zoning Regulations be updated with regard to screening HVAC units for commercial facilities. Reeves responded that this would be a requirement appropriate for the Zoning Regulations.

Reeves announced that Mike Davis retired as Code Services Director at the end of April; and John Fisher has been hired as the interim building official. She then reported that 295 building permits have been issued this year, as compared to a total of 286 in 2019. She also reported on construction values, permit fees, single-family permits, valuations, and building inspection totals.

Reeves reported that the timing of the Comprehensive Plan update has been slightly delayed, due to restrictions related to COVID-19. She noted, however, that much background work is being completed in the interim. She also reported that technical and steering committees are being formed, and the website will be launched soon.

**GENERAL DISCUSSION**

Menefee noted that staff has recommended that the discussion of Accessory Dwelling Units be continued, and asked if staff would recommend this be continued to July. There were no objections with regard to continuing the discussion to the July meeting.

There being no further general discussion, Elliott moved to adjourn the meeting. Collins seconded, and the meeting was adjourned by unanimous vote, 6-0, at 8:17 p.m.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Angie Baumann, PC Secretary

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Chair, Mark Oehlert / Vice-Chair, John Menefee

Minutes taken by Angie Baumann