

**MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
AUGUST 11, 2020**

(Meeting conducted remotely, via Zoom conference)

ATTENDANCE

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

MINUTES

AUGUST 11, 2020

MIAMI COUNTY PLANNING COMMISSION

CALL TO ORDER

Chair Mark Oehlert called the meeting to order at 7:00 p.m.

Oehlert announced that the Agenda and Meeting Packet are available at miamicountyks.org/AgendaCenter. He reminded the Planning Commissioners not to submit questions or comments through the “Chat” function in Zoom. Oehlert concluded by announcing that all votes of the Planning Commission will be conducted by roll call.

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll Call was taken and seven (7) members were present, constituting a quorum. Kevin Collins joined later in the meeting, bringing the total number of members present to eight (8). Kitchen was absent.

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

None disclosed.

ADOPTION OF THE AGENDA

Ross moved to adopt the Agenda, as presented. Menefee seconded, and the motion passed unanimously, 7-0.

CONSENT AGENDA

- **July 7, 2020** Planning Commission Minutes

- **20007-SUB: Valkar Farms**

(APPLICATION WITHDRAWN FOR REDESIGN)

Consideration of the Preliminary Plat of Valkar Farms, a Conservation Subdivision, a Replat of Lot 7, Rosner’s Farms, 2nd Plat, to create three lots ranging in size between 4.57 acres and 15.34 acres with an open space tract of 12 acres being described as a conservation area, utilizing the Conservation Subdivision standards in the Countryside zoning district per Section 5-5.02.1.B of the Miami County Zoning Regulations. The subject property, addressed as 28805 W 303rd St is located at the southwest corner of 303rd St and Lookout Rd, in part of the NE ¼ of Section 13, Township 17, Range 22, Paola Twp. Submitted by Steven Valkar, property owner of record.

Elliott moved to adopt the Consent Agenda as presented. Brown seconded, and the motion passed unanimously, 7-0.

REGULAR AGENDA

Old Business:

None.

New Business:

20008-SUB: Moore Estates

Teresa Reeves, Planning Director, introduced herself and presented the staff report for consideration of the Final Plat of Moore Estates, dividing approximately 76.43 acres into two lots of 22.099 acres, and 53.961 acres utilizing the Standard division criteria for the Agricultural zoning district. The subject property, addressed as 25145 Metcalf Rd, is located on the east side of Metcalf Rd, approximately ¼ mile north of 255th St, in the SW¼ of Section 8, Township 16, Range 25, Wea Twp. Submitted by Kelly and Tamara Peterson, current property owners of record, and Thomas and Janel Moore, future property owners of record.

Reeves reported that access to the proposed subdivision is from Metcalf Road, which is designated as an Arterial Road per the 1995 Comprehensive Transportation Plan. She stated that in Section 5-3.13 (Infrastructure Categories) of the Miami County Subdivision Regulations, Category 1 requires common access easements between each set of two lots for subdivisions that are located on Collector or Arterial Roads, regardless of the lot sizes. She announced that the current and future landowners have requested a Rule Exception from this regulation.

She then read aloud from Section 7-1.01 of the Subdivision Regulations:

“A rule exception may be approved by the Planning Commission, provided that, in its judgment, such action will not violate the public interest, unnecessarily burden the County or will annul the intent and purpose of these Regulations.

A Rule Exception shall not be granted unless all of the following apply:

1. Strict application of these Regulations will create an undue hardship upon the subdivider;
2. The proposed rule exception is in harmony with the intended purpose of these Regulations; and,
3. The public health, safety and welfare will be protected.”

Reeves reported that the current and future landowners have requested that the current driveway remain in its existing location, rather than being relocated to a common access point. She noted that they have also requested that the proposed location of the driveway for Lot 2 be located farther south, at the crest of the hill.

Reeves then covered the three standards for approving a Rule Exception, per Section 7-1.01 of the Subdivision Regulations:

1. *Strict application of these Regulations will create an undue hardship upon the subdivider.*

Reeves reported that the current and future landowners have both voiced concerns with regard to safety, when entering and exiting the property from the proposed common access easement location.

2. *The proposed rule exception is in harmony with the intended purpose of these Regulations.*

Reeves explained that the intended purpose of common access easements is to limit the number of new access points along Collector and Arterial roads in order to avoid potential accidents. As safety is the primary purpose for common access easements, staff believes the requested Rule Exception is in harmony with the intended purpose of the Regulations.

3. *The public health, safety and welfare will be protected.*

Reeves stated, with regard to safety, that the existing driveway to Lot 1 is the preferred location for access to Lot 1; and, the top of the hill is the preferred location for access to Lot 2. She reported that Road & Bridge Director J.R. McMahon had commented that although the proposed location of the common access easement meets the sight distance and spacing requirements for entrances, the preferred location for access to Lot 1 is the existing entrance for Lot 1; and the preferred location for access to Lot 2 is at the crest of the hill.

She stated that staff, therefore, recommends approval of the Final Plat, with the requested Rule Exception, based on the Findings and Condition No. 1.

The Planning Commission had no questions for staff.

Elliott moved to approve the Final Plat of Moore Estates, based upon Findings 1, 2, and 3 provided in the staff report, and subject to Condition No. 1, regarding the amendment of the Final Plat to remove the common access easement. Ross seconded, and the motion passed unanimously, 7-0.

Findings

1. The subdivision complies with the low-density designation of the Comprehensive Plan.
2. The subdivision complies with the minimum lot area and dimensions for a Standard subdivision in the Agricultural District of the Miami County, Kansas Zoning Regulations.
3. The subdivision complies with the Miami County, Kansas Subdivision Regulations, with approval of the requested Rule Exception.

Condition

1. The Final Plat shall be amended to remove the common access easement.

ANNOUNCEMENTS BY STAFF / COMMISSIONERS

Oehlert asked if Reeves can share any news or updates regarding the Comprehensive Plan update.

Reeves responded that the County Commissioners have asked staff to query the Stakeholder Committee members to measure their interest level regarding participating in engagement events virtually, via Zoom conference, during the COVID-19 pandemic. Reeves explained that she spoke about this with the consultant last week, and hopes staff will be able to query the stakeholders this week and receive their direction by next week.

Elliott asked who comprises the Stakeholder Committee. Reeves answered that it is a group of 40-50 people: business owners, landowners, etc., who were recommended by the Board of County Commissioners and staff.

Elliott then asked about the intended role of the Planning Commission in this process.

Reeves responded that representatives from the Planning Commission, Board of County Commissioners, and cities will comprise the other committee (Technical Committee). She noted that the current focus is on obtaining feedback from the general public and business owners regarding how they would like to see the County move forward. She added that the Planning Commissioners are welcome to attend the open meetings with the general public, but will be more involved later on in the process, once the consultant has compiled reports of feedback received and is drafting updates to the Comprehensive Plan.

Elliott reported that he participated in the Comprehensive Plan survey (online at: www.miamicountyksplan.com). He expressed that the survey seems to be directing for a specific set of answers; and, he is concerned about the survey data and how it will be used. He reasoned that the Planning Commissioners should have had the opportunity to review the survey prior to its launch, as this is something the Planning Commission will have to live and breathe for many years to come. He suggested that perhaps the Board of County Commissioners gave their input on the survey, which is fine with him.

Reeves responded that the consultant may have requested input from the Board of County Commissioners on some of the questions. She reported that the consultant had asked for her input as well as the County Administrator's input. She offered to share Elliott's concerns, and noted that the consultant has been very flexible thus far. She will be glad to talk with the consultant about possibly re-designing the survey.

Elliott stated that he will go back through the survey and make note of his concerns.

Reeves reported that the Community Development Department has been short-staffed for various reasons and is receiving numerous inquiries and building permit applications. She believes many people are trying to get out of the cities, and are looking for land in Miami County.

Elliott then read aloud the following comment from Road & Bridge Director J.R. McMahon pertaining to Item B.1. on the Regular Agenda (20008-SUB: Moore Estates):

“ . . . the Department does not see a real value in this regulation as [it] usually causes us more trouble than it solves.”

(McMahon’s comment is regarding Section 5-3.13.1, Category 1 of the Subdivision Regulations, which requires a common access easement between each set of two lots in a subdivision that are allowed direct access onto a collector or arterial road.)

Elliott asked if this regulation needs to be reviewed.

Reeves responded that the regulation likely needs to be reviewed; however, it is tied into many sections of the Zoning Regulations and Subdivision Regulations; therefore, it would not be easily eliminated. She noted that in most jurisdictions common access easements are usually recommended for engineering and safety purposes. She expressed that this regulation is bothersome for the Planning Department as well, and acknowledged that people dislike shared driveways.

Elliott suggested adding a section to future Planning Commission agendas, which lists regulations that warrant future discussion by the Planning Commission. He noted that the list of such discussion items could be carried over from meeting to meeting, but would serve as a simple reminder of items that need to be addressed.

Oehlert agreed.

Reeves also agreed, and noted that she will add future discussion items to the next Agenda, including the matter of common access easements. She explained that she has delayed addressing some items, as the update of the Comprehensive Plan will also require overhauling the Zoning Regulations and the Subdivision Regulations. Reeves reported that she is attempting to determine the possible cost to update the Sign Codes and Telecommunications Codes, as both are outdated and present constitutional issues; therefore, they require more immediate attention.

With regard to the public survey for the Comprehensive Plan update, Ross reported that he checked with one of the County Commissioners, who does not recall seeing a draft of that survey. Ross remarked that there should be cause for concern if the proposed survey was not presented to the County Commissioners or the Planning Commissioners. He added that either the County Commissioners or the Planning Commissioners should have had the opportunity to review the survey to identify any leading questions. He is concerned that the Planning Commission and Board of County Commissioners have not had a say in the Comprehensive Plan update process.

GENERAL DISCUSSION

Continued Discussion: Accessory Dwellings, Guest Houses, Granny Flats, Small Houses, etc.

Reeves stated that she met with Interim Building Official John Fisher to obtain answers to some of the questions raised at last month’s meeting. She reported that Fisher believes it is important to clarify that an ADU is not a duplex, in order to prevent being confused with a multi-family

dwelling, which is subject to Building Code requirements such as a firewall and separate HVAC, electrical service, etc.

Reeves noted that the staff report includes a portion of the Johnson County, Kansas ADU regulations, which specifies the purpose and intent of ADUs. She added that Johnson County's regulations specify that ADUs are "not intended to replace duplex and other multi-family districts and dwellings".

Reeves noted that during last month's discussion, a question was raised with regard to the ceiling height requirement for an attic space to be included in the gross floor area calculation. She explained that the current Regulations state that the headroom must be 7'10" or more, and that the Building Code states, "habitable rooms . . . shall have a ceiling height of not less than 7 feet . . ." She added that there are various exceptions listed for beams and girders, sloped ceilings, bathrooms, etc.

With regard to what qualifies as habitable area, Reeves reported that the Building Code provides that habitable area must include a fully functional kitchen with a sink, countertop, cooking device (i.e. a cooktop or oven—a microwave is not included); toilet facilities that include a water closet, lavatory, and a bathtub or shower; all plumbing fixtures connected to a sanitary sewer or to an approved private sewage disposal system; and all plumbing fixtures connected to an approved water supply. All kitchen sinks, lavatories, bathtubs, showers, bidets, laundry tubs and washing machine outlets shall be provided with hot and cold water.

Reeves explained that the Building Code requires that a finished basement with no bedrooms or sleeping areas must have at least one exit door, in which case, a stairway to the main floor and out the main door suffices. Each bedroom or sleeping area in a basement must have at least one egress window that is compliant with the Building Code.

Reeves then referenced minimum room areas, per the Building Code:

- **Minimum area:** Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet of gross floor area.
- **Other rooms:** Other habitable rooms shall have a floor area of not less than 70 square feet, with the exception of kitchens.
- **Minimum dimensions:** Habitable rooms shall not be less than 7 feet in any horizontal dimension, with the exception of kitchens.
- **Height effect of room area:** Portions of a room with a sloping ceiling measuring less than 5 feet or a furred ceiling measuring less than 7 feet from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room.

With regard to occupancy limits, Reeves noted that she had previously stated that it is three months or 90 days. She clarified that the Building Code defines "transient" occupancy as occupancy not more than 30 days.

Ross expressed that other than the requirement for a minimum lot size of two acres, he believes Johnson County's regulations for ADUs would fit well in Miami County.

Reeves responded that the town sites of Hillsdale and Bucyrus have smaller lot sizes; however, they are connected to public sewer. She suggested that perhaps a lot that is smaller than two acres in size could qualify for an ADU, as long as the property is connected to public sewer.

Ross commented that a property should be two acres or more in order to qualify for a detached ADU, but that such a requirement may not necessarily apply for interior ADUs. He would like to see a minimum lot size, especially with regard to detached ADUs.

(Kevin Collins joined the meeting.)

Elliott echoed Ross's comments, and added that much smaller lot sizes with multiple housing units becomes multi-family zoning. He remarked that he would be interested in a minimum lot size slightly larger than two acres. He does not see anything in the Johnson County regulations for ADUs that he would consider to be out of the question for Miami County.

Menefee agreed that Johnson County's regulations for ADUs could work in Miami County if they were slightly modified. He added that a two-acre minimum lot size likely is not large enough to accommodate a detached ADU.

Oehlert suggested that perhaps it is time for staff to prepare and submit a draft set of regulations for ADUs that the Planning Commission may begin reviewing and modifying. He asked the Planning Commissioners for their thoughts.

Broers commented that although the Planning Commissioners have provided some feedback, these discussions have been more informational in nature. She suggested that at the time draft regulations are presented, the Planning Commission may begin working out the various details.

Oehlert commented that the Planning Commission needs a draft document to work on. He noted that three Planning Commissioners have commented that they like Johnson County's regulations for ADUs. Oehlert remarked that those regulations could serve as a first draft, which the Planning Commission may then begin modifying to suit Miami County. He suggested placing this project on the Agenda as an item of business.

Oehlert announced that although this is not a public hearing, he would like to invite the participating public at this time to provide their thoughts on ADUs.

Reeves announced that one of the public participants, Steve Valkar, has sent a message through the "Chat" function in Zoom, stating that he cannot connect to audio. Reeves then invited Mr. Valkar to instead submit his question / comment through the "Chat" function in Zoom, so that it may be read aloud for the record. There was no further response from Mr. Valkar; and, it appeared that he had lost connectivity to the meeting.

Elliott asked about a possible timeline for staff to submit draft regulations for ADUs.

Oehlert suggested that staff provide at the next meeting, an update regarding their suggested modifications to the Johnson County regulations for ADUs. He added that some deadlines can also be set at the next meeting.

Reeves reported that there are no items on the Agenda for September 1st. She asked if the Planning Commissioners would still like to meet on September 1st.

Oehlert asked if staff would have the ability to prepare something for ADUs by the September 1st meeting.

Reeves expressed that in consideration of staff's current workload, this would be very difficult to accomplish.

Oehlert proposed cancelling the September 1st meeting, which would give staff additional time to have something prepared for the October 6th meeting. There were no objections.

Reeves was agreeable.

Oehlert announced that there will be no Planning Commission meeting in September.

There being no further discussion, Oehlert asked for a motion to adjourn. Collins moved to adjourn the meeting, Broers seconded, and the meeting was adjourned by a vote of 8-0¹, at 7:52 p.m.

Approved this _____ day of _____, 2020.

Angie Baumann, PC Secretary

Chair, Mark Oehlert / Vice-Chair, John Menefee

Minutes taken by Angie Baumann

¹ Kevin Collins joined the meeting at 7:38 p.m., during General Discussion.