

BOARD OF COUNTY COMMISSIONERS STUDY SESSION AGENDA

Wednesday, March 24, 2021 | 10:45 a.m.



-
1. General Discussion
 2. Discuss Rural Water District No.2 request for rezoning and a conditional use permit and proposed text amendment for Billboard signs with Teresa Reeves.

MIAMI COUNTY

STAFF REQUEST FOR COMMISSION ACTION

SUBMITTED BY: Teresa Reeves	REQUESTED MEETING DATE: March 24, 2021
DEPARTMENT: Planning	REQUESTED MEETING: <input checked="" type="checkbox"/> STUDY SESSION <input checked="" type="checkbox"/> REGULAR MEETING
CONTACT INFORMATION: 913-294-9553	PROJECT / REFERENCE NUMBER: 20004-Z: Office (C-O) to Low Intensity Commercial

AGENDA ITEM / SUBJECT:
Consider the recommendation of the Planning Commission to amend the Official Zoning Map

ITEM BACKGROUND / DESCRIPTION:
Consider the recommendation of the Planning Commission to rezone approximately 20 acres from C-O (Obsolete Zoning District) to C-1 (Low Intensity Commercial), in accordance with Sections 3-4.01 and 22 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 20 acres, which is addressed as 25290 Harmony Rd, Paola, KS, is located in the SE ¼ of Section 8, Twp 16, Range 23, Marysville Twp. Submitted by Midwest Engineering Group, LLC on behalf of Rural Water District No. 2, Miami County, the property owner of record. This application is submitted in conjunction with the request for a Conditional Use Permit (#20005-CUP).

REQUESTED ACTION / STAFF RECOMMENDATION:
Approve the request as recommended by the Planning Commission.

BUDGET IMPACT:

BUDGET AUTHORITY:	REMAINING BUDGET ALLOCATION:	
FUND / LINE ITEM:	FUNDS BUDGETED: <input type="checkbox"/> YES <input type="checkbox"/> NO	CAPITAL PROJECT: <input type="checkbox"/> YES <input type="checkbox"/> NO


SUBMITTER'S SIGNATURE:

3/17/21

DATE:

FISCAL REVIEW

SIGNATURE:

DATE:

Steve Johnson

3/17/2021

Comments:

LEGAL REVIEW

SIGNATURE:

DATE:

Comments:

ADMINISTRATOR REVIEW

SIGNATURE:

DATE:

Shane Kull

3-17-21

Comments:

COUNTY CLERK'S OFFICE USE

Commission Action Taken:

Accepted

Denied

Postponed

Acknowledged

Date Action Taken:

Required Follow-up Date:

Publication Required:

Submitted to Publication By:

Yes

No

NPG Account Number:

102898

Mail Distribution Required:

Mailed By:

Yes


No

Miami County Planning Department

BOCC Summary

DATE: March 24, 2021 – BOCC Meeting

TO: Board of County Commissioners

FROM: Teresa Reeves, Planning Director 

RE: **20004- Rezone from C-O (Obsolete Zoning District) to C-2 (Commercial)**
Consider the recommendation of the Planning Commission to rezone approximately 20 acres from C-O (Obsolete Zoning District) to C-1 (Low Intensity Commercial), in accordance with Sections 3-4.01 and 22 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 20 acres, which is addressed as 25290 Harmony Rd, Paola, KS, is located in the SE ¼ of Section 8, Twp 16, Range 23, Marysville Twp. Submitted by Midwest Engineering Group, LLC on behalf of Rural Water District No. 2, Miami County, the property owner of record. This application is submitted in conjunction with the request for a Conditional Use Permit (#20005-CUP).

Owner	Rural Water District No. 2, Miami County
Applicant	Midwest Engineering Group, LLC
Current Zoning	Office (C-O) an Obsolete Zoning District Z-36 (Office)
Proposed Zoning	Commercial (C-2), or a district of lesser intensity
Comp Plan	Commercial Hillsdale Watershed
Acreege	Approximately 20 Acres +/-
Parcel No.	083-08-0-00-00-013.00-0

Please refer to the Planning Commission report and Draft Minutes for details.

Public Notice: Twenty-two (22) surrounding property owners were notified by mail, plus a sign was posted in front of the property, and notice was published at least 20-days prior to the hearing before the planning commission.

Surrounding Zoning	The subject property is currently zoned Office District (C-O). Most of the surrounding properties are zoned Countryside (CS), except for land to the south, which is zoned Agricultural (AG), and the Commercial (C-2) zoning at the corner of 255 th Street and Harmony Road.
Surrounding Uses	Surrounding uses include mostly rural residential and agricultural uses, the communications tower, stables, a commercial store, and Hillsdale Lake, Park and USACE property associated with Hillsdale Lake.
Public Hearing Date	March 2, 2021
Public Comment	None
Protest Petition	A protest petition was not filed within the 14-day statutory period following the hearing.

Planning Commission Recommendation

Staff discussed with the Planning Commission the option to rezone the property to C-1 Low Intensity Commercial rather than C-2 Commercial as this would still allow the expansion facilities but allow less intensive uses on the property overall, which would have less impact on the surrounding neighborhood.

The Planning Commission voted unanimously (6-0) to recommend approval of the rezoning to the lesser zoning district of Low Intensity Commercial (C-1), based on the findings listed below.

Findings for Approval

1. The proposed Rezoning conforms to the Goals and Objectives of the Comprehensive Plan, which recognizes this property as Commercial.
2. The proposed Rezoning to Low Intensity Commercial (C-1) recognizes the previous zoning entitlement of Office (C-O); corrects the obsolete zoning district of Office (C-O) for this property; and provides the most analogous zoning district that is the least impactful to the surrounding residential, agricultural and park uses.

Board of County Commissioner Options:

1. Approve the request as recommended by the Planning Commission.
2. Override the Planning Commission’s recommendation by a 2/3 vote of the BOCC, including denying the request or approving the request with revised conditions.
3. Return the Planning Commission’s recommendation to the Planning Commission with a statement specifying the basis for the BOCC failure to approve or disapprove.
4. Defer for further study.

- Attachments:** PC Report
PC Minutes Excerpt
Agency Comments
Vicinity Map
Resolution

MIAMI COUNTY PLANNING DEPARTMENT

**PUBLIC HEARING –
Rezone from Office (C-O) to Commercial (C-2)**

DATE: March 2, 2021

TO: Miami County Planning Commission

FROM: Teresa Reeves, Planning Director

RE: **Public Hearing 20004- Rezone from C-O (Obsolete Zoning District) to C-2 (Commercial)**
Consideration of an application to rezone approximately 20 acres from C-O (Obsolete Zoning District) to C-2 (Commercial), in accordance with Sections 3-4.01 and 22 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 20 acres, which is addressed as 25290 Harmony Rd, Paola, KS, is located in the SE ¼ of Section 8, Twp 16, Range 23, Marysville Twp. Submitted by Midwest Engineering Group, LLC on behalf of Rural Water District No. 2, Miami County, the property owner of record. This application is submitted in conjunction with the request for a Conditional Use Permit (#20005-CUP).

Owner	Rural Water District No. 2, Miami County
Applicant	Midwest Engineering Group, LLC
Current Zoning	Office (C-O) an Obsolete Zoning District Z-36 (Office)
Proposed Zoning	Commercial (C-2), or a district of lesser intensity
Comp Plan	Commercial Hillsdale Watershed
Acreage	Approximately 20 Acres +/-
Parcel No.	083-08-0-00-00-013.00-0

Background

January 18, 1980: Certificate of Survey recorded with the Register of Deeds, at Book E of Surveys, Page 444, which describes a 20-acre tract (subject property).

- May 23, 1980:** Deed recorded with the Register of Deeds, at Book 277, Page 452, which conveyed 20 acres to Rural Water District No. 2, Miami County, Kansas.
- 1987:** Appraisal records show the construction of an office building and several support areas and site improvements related to RWD#2.
- September 5, 1991:** Resolution No. 09051-01 was approved, adopting Countywide zoning, with a zoning map recognizing existing uses. The legal description identifier #Z-36 was assigned to the above referenced 20-acre tract, and the property was zoned Office (C-O) to recognize the existing office and Water Treatment Plant (WTP) on the Rural Water District No. 2 property.
- March 28, 1998:** The Miami County, Kansas Zoning Regulations were amended, and several zoning districts were renamed and/or combined to reduce the districts to a total of seven. The C-O district was deleted but it was never clarified what zoning district this was supposed to be included with.
- July 1, 2001:** The Miami County, Kansas Zoning Regulations were revised. Article 3, Section 3-4.01 notes that some zoning districts were rezoned in 2008 and assimilated into some of the current zoning districts. However, not all obsolete zoning districts were rezoned (i.e. C-O) and a policy was established that these districts would continue to be regulated under the provisions of the latest Miami County, Kansas Zoning Regulations in which they are identified, rather than treating them as nonconformities.
- August 5, 2002:** Installation Permit #02101 was issued to repair the wastewater system located on the subject property.
- June 24, 2003:** Building Permit #03180-COM was issued for the construction of a shop, office, and equipment storage warehouse. On this same date, Installation Permit #03081 was issued for a holding tank.
- May 22, 2009:** Permit #09078-REM was issued for remodeling of the existing building to enclose one bay.
- February 23, 2010:** Permit #10018-ELE was issued to add generators to the water treatment plant and intake structure.
- January 15, 2013:** Permit #13006-REP was issued to replace three HVAC units.
- January 4, 2018:** Permit #18004-REM was issued for an interior remodel of the existing office space, lab, and restrooms.

December 2, 2020: Resolution No. R20-12-001 was approved, thereby authorizing the construction of a 250-foot (250') tall emergency communications tower for Miami County on the subject property.

Proposal

At staff's recommendation, the Applicants are requesting to rezone the subject property from Office (C-O) to Commercial (C-2). The subject property was initially zoned Office (C-O) upon the adoption of Countywide zoning in 1991 to recognize the existing use of the property as the Rural Water District No. 2 WTP and offices. The property has retained the C-O zoning designation even though this zoning district was eliminated in 1998 with amendments to the Zoning Regulations at that time. In 2001, language was included in the Zoning Regulations, which recognized that several zoning districts were obsolete and properties with those zoning designations would continue to be regulated under the latest version of the Zoning Regulations that included those districts.

When RWD No. 2 applied for a CUP to expand the WTP facilities, staff asked that the District also apply to rezone the property so the correct zoning designation could be assigned to the property. It should be noted that the Countryside (CS) zoning district, Low Intensity Commercial (C-1), and the Commercial (C-2) zoning districts all require approval of a CUP for operation of a water treatment facility.

Staff believes the C-1 district would recognize the existing zoning entitlement of Office (C-O), allow for the continued use of the WTP, and would be less intense, and therefore more compatible with the abutting residential, agricultural, and park uses than the proposed Commercial (C-2) zoning district would be.

Section 22-6.06 of the Miami County Zoning Regulations provides a Table of Lesser Change for use by the Planning Commission in determining when re-publication of an application for rezoning is required. The Table designates which zoning classifications are lesser changes authorized within the published zoning classification, and lists zoning classifications in descending order from the least intense to the most intense zoning district. The Planning Commission can modify, at its discretion, an application for rezoning to a district of lesser intensity, as determined by the Table of Lesser Change. The Table is copied below for reference.

AG		Agricultural District
CS		Countryside District
R-1		Rural Residential District
PD		Planned Development District
BP		Business Park District
C-1		Low Intensity Commercial District
C-2		Commercial District
I-1		Light Industrial District
I-2		Heavy Industrial District

Uses allowed by right in the C-1 and C-2 districts are listed below.

Low Intensity Commercial (C-1)

The purpose of the district is to provide for retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods.

1. Shops and stores for selling at retail, including, but not limited to, the selling of foods, including retail bakeries or pastry shops and non-alcoholic beverages for human consumption, soft goods such as clothing and shoes, drugs and cosmetics, furniture and appliances, printed materials, notions, hardware and paint, kitchenware, toys and sporting goods, jewelry, gifts and novelties, flowers, tobacco products, photographic equipment, antiques, artist and hobby supplies, music supplies, medical supplies, bicycles, and video tape rentals.
2. Services, including, but not limited to, those uses such as barber and beauty shops, optical shops, seamstress and tailoring shops, dry cleaning operations, eating establishments, interior decorator shops, photography studios and film processing shops, shoe repair shops, clinics, and small appliance repair shops.
3. Savings and loan institutions, credit union offices, and banks, all with or without drive-through facilities.
4. Fire stations.
5. Veterinary and small animal hospitals.
6. Engineering, accounting, research, management, and related services.
7. Business, professional, or medical offices.
8. Community centers, public libraries and museums.
9. Public parks and playgrounds.
10. Amateur station antenna structures for use by amateur radio operators, which do not exceed 40 meters (131.234 feet) in height and if it should fall or collapse it will be contained within the confines of the property on which it is installed.

11. Commercial and Non-commercial wind energy conversion systems (WECS). The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.
12. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities.....
13. Public facilities.
14. Accessory uses customarily incidental to the normal operation of the above uses, including parking lots and signs, as provided for in these Regulations.

Commercial (C-2)

The purpose of this district is to provide sufficient space in appropriate locations for all types of businesses, commercial, and miscellaneous service activities, particularly along certain existing major streets where a general mixture of commercial and service activity now exists or is planned to exist, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials, or the nuisance factors of dust, odor, or noise associated with manufacturing.

1. Any use permitted in the Low Intensity Commercial District (C-1) or the Business Park District (BP).
2. Stores for the retail sale of, including but not limited to, department store merchandise, new and used automobiles and trucks, automobile supplies, motorcycles, gasoline service stations, petroleum products (bulk plants not permitted), convenience stores with or without gasoline and/or cereal malt beverage sales, and food delivery outlets.
3. Services, including but not limited to those uses such as private clubs, liquor stores, and any retail establishment selling alcoholic beverages, automobile repair in connection with new auto sales or as an auxiliary use to a service station, dry cleaning and laundries, appliance and small equipment repair, radio and television broadcasting studios, public or private entertainment and recreation, charity and welfare services, and schools, including vocational and trade schools.
4. Shops and stores for the sale at retail or wholesale, and the rental of items, including, but not limited to, automotive equipment, trucks, trailers, boats, camping accessories, tools, farm machinery and supplies, building supplies, and lawn accessories.
5. Services, including but not limited to those uses such as automobile repair and washing, farm machinery repair, general repair and fix-it shops, frozen foods (including lockers), swimming pools, and motels and hotels.
6. Manufacture or assembly of products to be sold only at retail on the premises or in conjunction with a retail use.
7. Funeral homes and mortuaries.
8. Greenhouses, nurseries and/or hydroponic farms, operated as a retail business where products not raised, grown, or otherwise produced on the premises are sold.
9. Auction facilities.
10. Bed and Breakfast facilities, provided the minimum standards listed in Section 14-2 are met.
11. Preschool nurseries, day-care centers or day-care homes, provided the minimum standards listed in Section 14-2 are met.

12. Churches and parish halls, temples, convents and monasteries.
13. Adult entertainment businesses, subject to full compliance with the Miami County Adult Entertainment Code.
14. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities....
15. Commercial and non-commercial wind energy conversion systems (WECS). The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.
16. Accessory uses customarily incidental to the normal operation of the above uses, including parking lots and signs, as provided for in these Regulations.

Surrounding Zoning and Uses

The subject property is currently zoned Office District (C-O). Most of the surrounding properties are zoned Countryside (CS), except for land to the south, which is zoned Agricultural (AG), and the Commercial (C-2) zoning at the corner of 255th Street and Harmony Road. Surrounding uses include mostly rural residential and agricultural uses, the communications tower, stables, a commercial store, and Hillsdale Lake, Park and USACE property associated with Hillsdale Lake.

Legal Notice

Notice was mailed to 22 property owners located within 1,000 feet of the proposal. In addition, legal notice was published in the official County newspaper and a sign was posted in front of the property facing Harmony Road, and along 253rd Street. At the time of this writing, the Planning Department has not received any comments from the public. Department and agency comments are attached for your review.

Discussion

The Planning Commission needs to consider all comments at the public hearing, and then consider, but not limit its consideration, to the following *Golden Criteria* when making Findings to approve or deny the requested Rezoning.

1. Character of the neighborhood.

The surrounding area comprises the existing RWD #2 water treatment facilities, the emergency communications tower that is currently under construction, the USACE property/park associated with Hillsdale Lake, commercial property at the corner of 255th Street and Harmony Road, S&S Stables on Orleans Road, and a mixture of small and large rural residential properties and agricultural uses.

2. The zoning and uses of property nearby.

The subject property is currently zoned C-O (Office). Most of the surrounding properties are zoned Countryside except for land to the south which is zoned Agricultural, and the Commercial zoning at the corner of 255th and Harmony Rd. Surrounding uses include mostly rural residential and agricultural uses, the communications tower, stables, a commercial store, and Hillsdale Lake, Park and Corps property associated with Hillsdale Lake.

3. The suitability of the subject property to its present use.

The subject property has been owned and occupied as a WTP since 1980 and is therefore suitable to its present use.

4. The extent to which removal of the present zoning will detrimentally affect nearby property.

The present zoning is Office (C-O), an obsolete zoning district. Although the use of the property will not change, staff is recommending that the property be rezoned to a more analogous zoning district for the use of the existing office and WTP. The Low Intensity Commercial (C-1), and Commercial (C-2) zoning districts both require approval of a CUP for the water treatment facility expansion, which is discussed in a separate report.

5. The length of time the subject property has remained vacant.

N/A. The property was developed with the existing WTP.

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.

The WTP has been operating at this location since the 1980's. There is a need to increase capacity to meet current and future growth in the region; to meet new EPA and State regulations; and to improve operations and efficiencies within the WTP and system. There is no indication of any detrimental impacts on nearby property values or real estate sales due to the existing use of the property as a WTP. Expansion of this facility is addressed in the report for the associated CUP application. A significant hardship would be imposed upon RWD #2 if it is denied the ability to expand/modify its existing operations, as there would be production delays, etc. while the District locates and purchases new real estate in proximity to Hillsdale Lake; obtains new easements and proper zoning entitlement; and constructs new facilities. These production delays could be potentially detrimental to public health, safety, and welfare.

7. Whether the proposed rezoning would be consistent with the intent and purpose of the Zoning Regulations.

Staff believes the Rezoning is consistent with the intent and purpose of the Zoning Regulations, recognizes the existing uses on the property, and honors the existing zoning entitlement previously gained by the property owners. In staff's opinion, this Rezoning corrects an oversight in the previous amendments to the Zoning Regulations.

8. The recommendations of the County's permanent or professional staff.

The existing Office (C-O) zoning was established upon Countywide zoning in 1991 and has since become an obsolete zoning district. Staff is recommending rezoning to either C-1 or C-2 to place the property in a more analogous zoning district in the current regulations, which should have been addressed in 1998.

9. The conformance of the requested zoning change to the adopted Miami County Comprehensive Plan.

The surrounding area is identified as Park and Rural Residential. It is also located near the Hillsdale Lake reservoir, which is recognized in the Plan as being a public water source. Although this property is not located in an identified Area of Regional Significance, the WTP does have a regional impact, as it supplies potable water to a large portion of Miami County and a portion of Johnson County. The Plan discusses the need to plan for increased growth pressures from the north, the lack of water supply for fire protection, and the Hillsdale Lake's purpose as a water supply source. It also discusses the need to protect Hillsdale Lake from pollutants and sediments. A Stormwater Pollution and Prevention Plan (SWPPP) will be obtained using Best Management Practices (BMP's) in compliance with the Clean Water Act. In addition, a Stormwater Plan has been reviewed and approved to ensure that there will be no net increase in run-off and that water quality will be preserved.

Based upon these discussions, staff believes the proposed Rezoning, conforms to the vision, goals and objectives of the Comprehensive Plan.

10. Such additional matters as may apply in individual circumstances.

Performance standards of the district will need to be followed.

Recommendation

It is staff's recommendation that the Planning Commission recommend approval of the Rezoning from Office (C-O) (an obsolete zoning district) to Low Intensity Commercial (C-1), based on the Findings listed herein.

Findings for Approval

1. The proposed Rezoning conforms to the Goals and Objectives of the Comprehensive Plan, which recognizes this property as Commercial.
2. The proposed Rezoning to Low Intensity Commercial (C-1) recognizes the previous zoning entitlement of Office (C-O); corrects the obsolete zoning district of Office (C-O) for this property; and provides the most analogous zoning district that is the least impactful to the surrounding residential, agricultural and park uses.

Attachments: Department & Agency Comments
Location Map, with Zoning Highlighted

Excerpt from the March 2, 2021 Draft Planning Commission Minutes

Public Hearing 20004- Rezone from C-O (Obsolete Zoning District) to C-2 (Commercial)

Reeves presented the staff report for consideration of an application to rezone approximately 20 acres from C-O (Obsolete Zoning District) to C-2 (Commercial), in accordance with Sections 3-4.01 and 22 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 20 acres, which is addressed as 25290 Harmony Rd, Paola, KS, is located in the SE $\frac{1}{4}$ of Section 8, Twp 16, Range 23, Marysville Twp. Submitted by Midwest Engineering Group, LLC on behalf of Rural Water District No. 2, Miami County, the property owner of record. This application is submitted in conjunction with the request for a Conditional Use Permit (#20005-CUP).

Reeves explained that this now obsolete zoning district was created upon the adoption of Countywide zoning in 1991 and is being regulated under the 1995 Zoning Regulations. She reported that staff had advised the Applicant that it would be appropriate to request the Rezoning and a conditional use permit (CUP) simultaneously.

She reported that staff had initially encouraged the Applicant to apply for Commercial (C-2) zoning. However, staff later reviewed the uses allowed in the Low Intensity Commercial District (C-1) and determined that rezoning to C-1 would accommodate the requested CUP and would have less impact to the surrounding residential, agricultural and park uses compared to the C-2 District. Reeves directed the Planning Commissioners to the Table of Lesser Change (Section 22-6.06 of the Zoning Regulations) included in the staff report and explained that the Planning Commission may modify, at its discretion, an application for rezoning to a district of lesser intensity, as determined by the Table. Reeves also directed the Planning Commissioners to the uses allowed by right in the C-1 and C-2 districts, included in the staff report.

Reeves then read aloud the *Golden Criteria* to be used by the Planning Commission when making Findings to approve or deny the requested Rezoning.

Staff recommends approval of the Rezoning from Office (C-O) to Low Intensity Commercial (C-1), based on the Findings listed in the staff report.

Broers asked if the Applicant is requesting a Rezoning to C-2, and if staff is recommending a Rezoning to C-1 instead.

Reeves confirmed and explained that staff had encouraged the Applicant to apply for C-2 zoning, but later determined that the C-1 District would also accommodate the Applicant's CUP request and would be less intense than the C-2 District. She stated that the Planning Commission may decide which zoning district would be most appropriate.

Elliott explained that the reason not to rezone to C-2 is that there would be that many more uses that would be allowed by right to occur on the property if the water treatment plant ceases to exist in the future.

Oehlert then opened the public hearing and twice invited public comment. There being no

response, Oehlert closed the public hearing.

Reeves noted that the Applicant is present this evening.

Oehlert invited the Applicant to speak, but the Applicant declined to do so.

Elliott moved to recommend approval of the Rezoning from Office (C-O) to Low Intensity Commercial (C-1), based on the Findings listed 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 March 24, 2021 at 1:00 p.m.

Findings for Approval

1. The proposed Rezoning conforms to the Goals and Objectives of the Comprehensive Plan, which recognizes this property as Commercial.
2. The proposed Rezoning to Low Intensity Commercial (C-1) recognizes the previous zoning entitlement of Office (C-O); corrects the obsolete zoning district of Office (C-O) for this property; and provides the most analogous zoning district that is the least impactful to the surrounding residential, agricultural and park uses.

From: JR McMahon <JMcMahon@miamicountyks.org>
Sent: Tuesday, January 12, 2021 3:14 PM
To: Angie Baumann <abaumann@miamicountyks.org>
Cc: Jeff McGuire <jmcguire@miamicountyks.org>
Subject: RE: Notification of Hearing & Request for Comments (2 Applications): 20004-Z - Rezone from C-O to C-2 & 20005-CUP - RWD No. 2 Water Treatment Facility Expansion

Angie,

The Road and Bridge Department has the following comment(s):

- The new entrance location on Harmony Road meets sight and spacing requirements
- The entrance, due to the C-2 Zoning, will require a paved surface from the edge of the pavement to the ROW line.

If you need anything else on this please contact me

JR

From: jfrancis@jcf2.org <jfrancis@jcf2.org>
Sent: Friday, January 15, 2021 10:32 AM
To: Angie Baumann <abaumann@miamicountyks.org>
Cc: jfrancis@jcf2.org
Subject: RE: Notification of Hearing & Request for Comments (2 Applications): 20004-Z - Rezone from C-O to C-2 & 20005-CUP - RWD No. 2 Water Treatment Facility Expansion

Angie,

Here are the comments from the Fire District related to this proposed development.

Thanks, Jim

From: Shane Krull <SKrull@miamicountyks.org>
Sent: Tuesday, January 12, 2021 7:38 AM
To: Angie Baumann <abaumann@miamicountyks.org>
Subject: RE: Notification of Hearing & Request for Comments (2 Applications): 20004-Z - Rezone from C-O to C-2 & 20005-CUP - RWD No. 2 Water Treatment Facility Expansion

Angie:

I do not have any specific comments regarding the rezoning request. I am supportive of the RWD No. 2's ability to obtain the necessary zoning entitlement to allow for the water plant expansion.

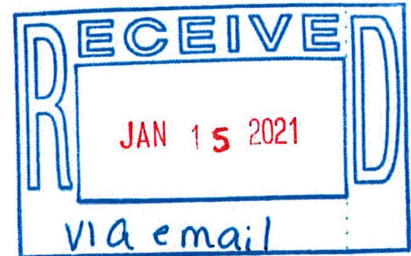
Thanks,
Shane



Johnson County Fire District #1
490 New Century Pkwy.
New Century, KS 66031

FIRE PLAN REVIEW

Date: 01/12/21
Permit:
Business/Project: Water Treatment Plant
Address/Vicinity: W 253rd St and Harmony
Occupancy Classification:
Square Feet:
Construction Type:
Project Description: Site Expansion – Phase I

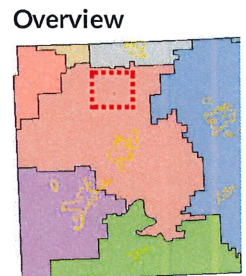
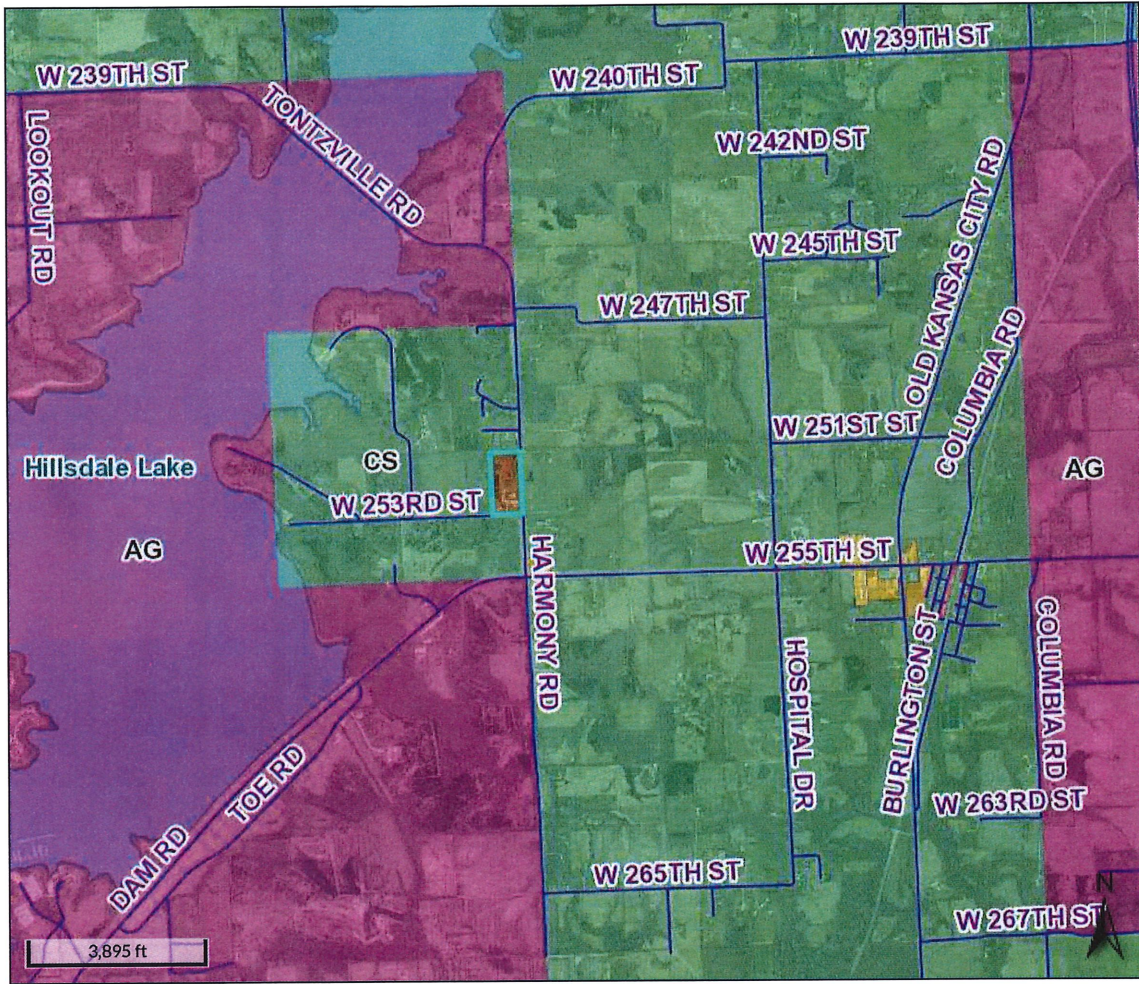




















Reviewed in accordance with the 2006 International Fire Code.

Comments:

- 1) **Fire Flow.** Potential Fire Flow increase will need to be met with the addition of future structures.
- 2) **Hydrant Locations.** There appears to be one (1) hydrant showing on Sheet C-SW-100 and 101 located in the SE corner of this property. Hydrant locations may need to be re-evaluated with the addition of structures.

Status: Approved Phase I with Comments.
Reviewer: Brad Ralston – Deputy Fire Marshal



- Legend**
-  City Limits
 -  Centerlines
 -  Parcels
 -  Lakes
 - Zoning**
 -  AG
 -  BP
 -  C-0
 -  C-1
 -  C-2
 -  CITY
 -  CS
 -  I-1
 -  I-2
 -  PD
 -  PRD
 -  R-1
 -  R-1A
 -  R-3

Parcel ID= 0830800000013000
Acres= 18.931314059999998

Date created: 3/17/2021
Last Data Uploaded: 3/17/2021 7:19:21 AM

Developed by  **Schneider**
GEOSPATIAL

RESOLUTION

NO. _____

**A RESOLUTION APPROVING AN AMENDMENT TO THE BOUNDARIES
OF THE OFFICIAL COUNTY ZONING DISTRICT MAP FROM
OFFICE (C-O (AN OBSOLETE ZONING DISTRICT))
TO LOW INTNESITY COMMERCIAL (C-1)**

WHEREAS, Miami County, Kansas is a Municipal County government with the authority to adopt or amend County Zoning Regulations pursuant to K.S.A. 12-753, 12-757, et seq.; and

WHEREAS, the County did in September 1991, adopt the Miami County Zoning Regulations, and has thereafter amended such periodically, including the Zoning District Boundaries Map, as contained in Section 3 of said regulations; and

WHEREAS, the Miami County Planning Commission held a public hearing on March 2, 2021, to consider amending the Official Zoning District Boundaries Map and to rezone from Office (C-O) to Commercial (C-2) that certain real property described in Section 1 below; and

Section 1: Legal Description for Rural Water District No. 2

Beginning at the Northeast (NE) corner of the Southeast Quarter (SE ¼) of Section 8, Township 16 South, Range 23 East, Miami County, Kansas; thence West 654.31 feet and along the North line of said Quarter Section; thence South 1331.32 feet; thence East 654.31 feet to a point on the East line of said Quarter Section; thence North 1331.47 feet and along the East line of said Quarter Section to the point of beginning, containing 20.00 acres, more or less, all being the East 20.00 acres of the North one-half of the Southeast Quarter (N ½ SE ¼) of Section 8, Township 16 South, Range 23 East, Miami County, Kansas.

WHEREAS, the Planning Commission, after reviewing all written and oral testimony at the hearing, and after reviewing the allowed uses in both the Low Intensity Commercial (C-1) and the Commercial (C-2) zoning districts, the Planning Commission determined it to be in the public interest to rezone the property to a lesser zoning district as provided in Section 22-6.06, and recommended with a unanimous vote of 6 approving, 0 opposed, that the County Commission approve said amendment to the Zoning District Boundaries Map from Office (C-O) to Low Intensity Commercial (C-1) that certain real property described in Section 1, based on the findings listed below:

FINDINGS

1. The proposed Rezoning conforms to the Goals and Objectives of the Comprehensive Plan, which recognizes this property as Commercial.
2. The proposed Rezoning to Low Intensity Commercial (C-1) recognizes the previous zoning entitlement of Office (C-O); corrects the obsolete zoning district of Office (C-O) for this

property; and provides the most analogous zoning district that is the least impactful to the surrounding residential, agricultural and park uses.

WHEREAS, the County Commission held a public meeting on March 24, 2021, to consider the recommendation of the Planning Commission to amend the Official Zoning District Boundaries Map from Office (C-O) to Low Intensity Commercial (C-1); and

WHEREAS, a protest petition was not filed with the Clerk of Miami County, Kansas within the 14-day period following the Planning Commission hearing; and

WHEREAS, after reviewing all comments and considering the recommendation from the Planning Commission, the County Commission concurs with the Planning Commission's findings to amend the Official County Zoning District Boundaries Map and rezone that real property described in Section 1 from Office (C-O) to Low Intensity Commercial (C-1).

NOW, THEREFORE, BE IT RESOLVED THAT the Miami County Board of Commissioners does hereby approve an amendment to the Official Zoning District Boundaries Map to rezone Office (C-O) to Low Intensity Commercial (C-), that certain property described in Section 1, based on the same findings of the Planning Commission listed above.

**THIS RESOLUTION SHALL TAKE EFFECT UPON PUBLICATION IN THE
OFFICIAL COUNTY NEWSPAPER.**

ADOPTED ON THIS 24th DAY OF MARCH 2021.

**BOARD OF COUNTY COMMISSIONERS
MIAMI COUNTY, KANSAS**

ATTEST

BONNIE "ROB" ROBERTS, Commission Chairman

TYLER VAUGHAN, Commission Chairman Pro-Tem

JANET WHITE, County Clerk

PHIL DIXON, Commissioner

GEORGE PRETZ, Commissioner

DANNY GALLAGHER, Commissioner

Approved as to form and legality on _____ by _____.

MIAMI COUNTY

STAFF REQUEST FOR COMMISSION ACTION

SUBMITTED BY: Teresa Reeves	REQUESTED MEETING DATE: March 24, 2021
DEPARTMENT: Planning	REQUESTED MEETING: <input checked="" type="checkbox"/> STUDY SESSION <input checked="" type="checkbox"/> REGULAR MEETING
CONTACT INFORMATION: 913-294-9553	PROJECT / REFERENCE NUMBER: 20005-CUP: Rural Water District #2

AGENDA ITEM / SUBJECT: Consider the recommendation of the Planning Commission to approve Conditional Use Permit 20005-CUP
ITEM BACKGROUND / DESCRIPTION: Consideration of an application for a Conditional Use Permit for a 4-phase expansion of the water treatment facility operated by Rural Water District No. 2, Miami County, per Section 8-2.02.16 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 20 acres, which is addressed as 25290 Harmony Rd, Paola, KS, is located in the SE ¼ of Section 8, Twp. 16, Range 23, Marysville Twp. Submitted by Midwest Engineering Group, LLC on behalf of Rural Water District No. 2, Miami County, the property owner of record. This Application is submitted in conjunction with the request to rezone (#20004-Z) approximately 20 acres from C-O (Obsolete Zoning District) to C-2 (Commercial).
REQUESTED ACTION / STAFF RECOMMENDATION: Approve the request as recommended by the Planning Commission.

BUDGET IMPACT:		
BUDGET AUTHORITY:	REMAINING BUDGET ALLOCATION:	
FUND / LINE ITEM:	FUNDS BUDGETED: <input type="checkbox"/> YES <input type="checkbox"/> NO	CAPITAL PROJECT: <input type="checkbox"/> YES <input type="checkbox"/> NO



3/17/21

SUBMITTER'S SIGNATURE:

DATE:

FISCAL REVIEW

SIGNATURE: *Stem Lyman*

DATE: *3/17/2021*

Comments:

LEGAL REVIEW

SIGNATURE:

DATE:

Comments:

ADMINISTRATOR REVIEW

SIGNATURE: *Shane Knell*

DATE: *3-17-21*

Comments:

COUNTY CLERK'S OFFICE USE

Commission Action Taken:

Accepted

Denied

Postponed

Acknowledged

Date Action Taken:

Required Follow-up Date:

Publication Required:

Submitted to Publication By:

Yes No

NPG Account Number:

102898

Mail Distribution Required:

Mailed By:


Yes No

Miami County Planning Department

BOCC Summary

DATE: March 24, 2021 – BOCC Meeting

TO: Board of County Commissioners

FROM: Teresa Reeves, Planning Director 

RE: **20005-CUP: Rural Water District No. 2, Miami County – Water Treatment Facility Expansion**
Consideration of an application for a Conditional Use Permit for a 4-phase expansion of the water treatment facility operated by Rural Water District No. 2, Miami County, per Section 8-2.02.16 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 20 acres, which is addressed as 25290 Harmony Rd, Paola, KS, is located in the SE ¼ of Section 8, Twp. 16, Range 23, Marysville Twp. Submitted by Midwest Engineering Group, LLC on behalf of Rural Water District No. 2, Miami County, the property owner of record. This Application is submitted in conjunction with the request to rezone (#20004-Z) approximately 20 acres from C-O (Obsolete Zoning District) to C-2 (Commercial).

Property Owners Rural Water District No. 2

Applicant Jerry Bennett, General Manager, RWD #2

Current Zoning Office District (C-O) (Obsolete Zoning District)
Z-36 (Office)

Comp Plan Commercial
Hillsdale Watershed

Acreage Approximately 20 acres

Parcel No. 083-08-0-00-00-013.00-0

Please refer to the Planning Commission report and Draft Minutes for details.

Public Notice: Twenty-two (22) surrounding property owners were notified by mail, plus a sign was posted in front of the property, and notice was published at least 20-days prior to the hearing before the planning commission.

Surrounding Zoning	The subject property is currently zoned Office District (C-O). Most of the surrounding properties are zoned Countryside (CS), except for land to the south, which is zoned Agricultural (AG), and the Commercial (C-2) zoning at the corner of 255 th Street and Harmony Road.
Surrounding Uses	Surrounding uses include mostly rural residential and agricultural uses, the communications tower, stables, a commercial store, and Hillsdale Lake, Park and USACE property associated with Hillsdale Lake.
Public Hearing Date	March 2, 2021
Public Comment	None
Protest Petition	A protest petition was not filed within the 14-day statutory period following the hearing.

Planning Commission Recommendation

The Planning Commission voted unanimously (6-0) to recommend approval of the CUP, based on the findings and subject to the conditions, as amended below (addition of Conditions 6 and 7).

Findings

1. The Comprehensive Plan recognizes the need for increased water demands and recognizes Hillsdale Lake as a water resource.
2. The WTP has existed at this location since circa 1987, and it is reasonable to expect the site to expand as growth and water demands increase.
3. Based on recent real estate sales, there is no evidence to suggest that the proposed expansion to the existing WTP will detrimentally affect nearby properties or property values.

Conditions

1. Except as amended by these Conditions, the property shall be developed according to the site plan, attached hereto as **Exhibit "A"**.
2. Except as amended by these Conditions, the property shall be developed according to the Applicant's Narrative, attached hereto as **Exhibit "B"**.
3. The term of this CUP shall be for an indefinite period or until the use ceases for a period of 365 continuous days.
4. Screening of the buildings and parking areas shall be provided and maintained, where not in conflict with KDHE regulations.
5. All lighting shall be of shoebox design and directed downward to eliminate offsite glare.
6. The new entrance shall be paved from the edge of the pavement to the right-of-way line and shall be completed by the end of the project or when construction ceases for a period of more than 365 days.

7. The location of all fire hydrants, current and future, shall be shown on the Site Plan.

Board of County Commissioner Options:

1. Approve the request as recommended by the Planning Commission.
2. Override the Planning Commission's recommendation by a 2/3 vote of the BOCC, including denying the request or approving the request with revised conditions.
3. Return the Planning Commission's recommendation to the Planning Commission with a statement specifying the basis for the BOCC failure to approve or disapprove.
4. Defer for further study.

Attachments: PC Report
PC Minutes Excerpt
Agency Comments
Vicinity Map
Resolution

MIAMI COUNTY PLANNING DEPARTMENT

**PUBLIC HEARING – Rural Water District No. 2
Water Treatment Plant Expansion**

DATE: March 3, 2021

TO: Miami County Planning Commission

FROM: Teresa Reeves, Director

RE: **Public Hearing 20005-CUP: Rural Water District No. 2, Miami County – Water Treatment Facility Expansion**
Consideration of an application for a Conditional Use Permit for a 4-phase expansion of the water treatment facility operated by Rural Water District No. 2, Miami County, per Section 8-2.02.16 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 20 acres, which is addressed as 25290 Harmony Rd, Paola, KS, is located in the SE ¼ of Section 8, Twp. 16, Range 23, Marysville Twp. Submitted by Midwest Engineering Group, LLC on behalf of Rural Water District No. 2, Miami County, the property owner of record. This Application is submitted in conjunction with the request to rezone (#20004-Z) approximately 20 acres from C-O (Obsolete Zoning District) to C-2 (Commercial).

Property Owners	Rural Water District No. 2
Applicant	Jerry Bennett, General Manager, RWD #2
Current Zoning	Office District (C-O) (Obsolete Zoning District) Z-36 (Office)
Comp Plan	Commercial Hillsdale Watershed
Acreage	Approximately 20 acres
Parcel No.	083-08-0-00-00-013.00-0

Background

January 18, 1980: Certificate of Survey recorded with the Register of Deeds at Book E of Surveys, Page 444, which describes a 20-acre tract (subject property).

- May 23, 1980:** Deed recorded with the Register of Deeds at Book 277, Page 452, which conveyed 20 acres to Rural Water District No. 2, Miami County, Kansas.
- 1987:** Appraisal records show the construction of an office building and several support areas and site improvements related to RWD #2.
- September 5, 1991:** Resolution No. 09051-01 was approved, adopting Countywide zoning, with a zoning map recognizing existing uses. The legal description identifier #Z-36 was assigned to the above referenced 20-acre tract, and the property was zoned Office (C-O) to recognize the existing office and Water Treatment Plant on the Rural Water District No. 2 property.
- March 28, 1998:** The Miami County, Kansas Zoning Regulations were amended, and several zoning districts were renamed and/or combined to reduce the districts to a total of seven. The C-O district was deleted but it was never clarified what zoning district this was supposed to be included with.
- July 1, 2001:** The Miami County, Kansas Zoning Regulations were revised. Article 3, Section 3-4.01 notes that some zoning districts were rezoned in 2008 and assimilated into some of the current zoning districts. However, not all obsolete zoning districts were rezoned (i.e. C-O) and a policy was established that these districts would continue to be regulated under the provisions of the latest Miami County, Kansas Zoning Regulations in which they are identified, rather than treating them as nonconformities.
- August 5, 2002:** Installation Permit #02101 was issued to repair the wastewater system located on the subject property.
- June 24, 2003:** Building Permit #03180-COM was issued for the construction of a shop, office, and equipment storage warehouse. On this same date, Installation Permit #03081 was issued for a holding tank.
- May 22, 2009:** Permit #09078-REM was issued for remodeling of the existing building to enclose one bay.
- February 23, 2010:** Permit #10018-ELE was issued to add generators to the water treatment plant and intake structure.
- January 15, 2013:** Permit #13006-REP was issued to replace three HVAC units.
- January 4, 2018:** Permit #18004-REM was issued for an interior remodel of the existing office space, lab, and restrooms.

December 2, 2020: Resolution No. R20-12-001 was approved, thereby authorizing the construction of a 250-foot (250') tall emergency communications tower for Miami County on the subject property.

Proposal

This conditional use permit (CUP) application is a request to expand/modify the existing Rural Water District No. 2 Water Treatment Plant (WTP), located at 25290 Harmony Road. Please note that the Applicant, under the advisement of staff, is also applying to rezone the property to Commercial (C-2) to correct the issue of the property being in an obsolete zoning district. In either district, a Conditional Use Permit is necessary for a water treatment facility.

The proposed expansion is intended to increase the capacity of the existing water treatment facility from 6 MGD to 12 MGD, which aligns with the District's strategic growth plan to meet current and future growth, new EPA and State regulations, improve the plant/system operations and efficiencies, and provide reasonably priced potable water to the region. The expansion and improvements are proposed in three phases, as described in the Applicant's Narrative, which is attached to this report:

Phase 1 - Ground work prep for all three phases; install process piping, pre-sedimentation basin #1, process waste piping and a discharging lagoon system, which will replace the existing lagoon system, and excavation associated with environmental impacts while allowing the uninterrupted operation of the existing WTP. Phase 1 design and construction will begin immediately upon permits being issued. The WTP will continue its current production, operations and activities for this phase.

Phase 2 - Installation of an underground concrete clearwell complex, including installation of a chlorine contact basin with disinfection systems, two clearwells, wet well, backwash pump, high service pumps (HSP), and associated piping, totaling over 3M gallons of onsite storage. Phase 2 will also include a new duplex 200 gpm supernatant return pump system. There will be two buildings—one to house the disinfection process equipment, and the other for the high service pump equipment. The existing above-grade ground storage tank and HSP's will be removed. Phase 2 design and construction will begin immediately after permitting. The WTP will continue its current production, operations and activities for this phase.

Phase 3 - New chemical feed building, splitter box, rapid mix basin, pre-sedimentation basin #2, and treatment building #2. Treatment building #2 is identical and parallel to the existing 6 MGD water treatment processes housed in the existing treatment building #1. It may be two to five years before permitting and construction are considered for Phase 3 design and construction. The WTP will increase its current production for this phase from 6 MGD to 12 MGD to meet growth in the region.

Future Phase - This will be part of a future study and construction project to expand the capacity of the raw water intake and treatment facility. The treatment site has been arranged to allow for future WTP expansion in like kind, up to 18 MGD within the existing site, at which time distribution improvements will need to be addressed.

Utilities: Some relocations of existing components and installation of additional components will be needed. Supply lines will be relocated along with other on-site utilities. A single additional entrance will be added to the east entrance off Harmony Road.

Impacts to Surrounding Properties: The soil and drainage area within the subject property will be altered from its current state, as seen on construction drawings. An unnamed tributary will be directed through an RCP culvert on the northwestern portion of the property, which will affect stream travel through the Edwards and O'Malley properties. Trees will need to be removed as part of this piping construction, which may alter views for properties on the north and west boundaries. The Stormwater Plan submitted December 21, 2020 was reviewed and approved by Jim Ferguson, PE, MBA, who is contracted with IBTS. Easements and agreements with Edwards and O'Malley have been obtained by RWD #2 and recorded. Property owners have been contacted and are in favor of the project.

Discussion

The Planning Commission needs to consider all comments at the public hearing, and then consider, but not limit its consideration to the following *Golden Criteria* in making Findings to recommend approval or denial of the request:

1. Character of the neighborhood.

The surrounding area comprises the existing RWD #2 water treatment facilities, the emergency communications tower that is currently under construction, the USACE property/park associated with Hillsdale Lake, commercial property at the corner of 255th Street and Harmony Road, S&S Stables on Orleans Road, and a mixture of small and large rural residential properties and agricultural uses.

2. The zoning and uses of property nearby.

The subject property is currently zoned Office District (C-O). Most of the surrounding properties are zoned Countryside (CS), except for land to the south, which is zoned Agricultural (AG), and the Commercial (C-2) zoning at the corner of 255th Street and Harmony Road. Surrounding uses include mostly rural residential and agricultural uses, the communications tower, stables, a commercial store, and Hillsdale Lake, Park and USACE property associated with Hillsdale Lake.

3. The suitability of the subject property to its present use.

The subject property has been owned and occupied as a WTP since 1980 and is therefore suitable to its present use.

4. The extent to which removal of the present zoning will detrimentally affect nearby property.

The present zoning is Office (C-O), an obsolete zoning district. Although the use of the property will not change, staff is recommending that the property be rezoned to a

more analogous zoning district for the use of the existing office and WTP. The CS, Low Intensity Commercial (C-1), and C-2 zoning districts all require approval of a CUP for the WTP expansion. The existing use is being modified and increased in intensity. With appropriate conditions, there should be no detrimental effect to nearby properties. The zoning of the property is discussed separately in the staff report for the associated Rezoning (#20004-Z).

5. The length of time the subject property has remained vacant.

N/A. The property was developed with the existing WTP.

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.

Water treatment facilities are necessary to provide safe, potable water for human consumption. The WTP has been operating at this location since 1980. There is a need to increase capacity to meet current and future growth in the region; to meet new EPA and State regulations; and to improve operations and efficiencies within the WTP and system. There is no indication of any detrimental impacts on nearby property values or real estate sales due to the existing use of the property as a WTP. A significant hardship would be imposed upon RWD #2 if it is denied the ability to expand/modify its existing operations, as there would be production delays, etc. while the District locates and purchases new real estate in proximity to Hillsdale Lake; obtains new easements and proper zoning entitlement; and constructs new facilities. These production delays could be potentially detrimental to public health, safety, and welfare.

7. Whether the proposed conditional use permit would be consistent with the intent and purpose of the Zoning Regulations.

The Zoning Regulations require approval of a CUP for public utility facilities. The intent of the Regulations is to allow certain uses if they are found to be compatible with the residential/agricultural uses of the district, and, if negative impacts can be mitigated. The WTP has existed at this location since the 1980's. With proper conditions, staff believes any negative impacts will be sufficiently mitigated.

8. The recommendations of the County's permanent or professional staff.

After weighing the merits of the request and its implications to the surrounding property owners, staff recommends approval of the request, based upon the Findings, and subject to the Conditions listed at the end of this report.

9. The conformance of the requested conditional use permit to the adopted Miami County Comprehensive Plan.

The Comprehensive Plan designates this site as Commercial, which, essentially recognizes the existing commercial use of this property and identifies it as being within the Hillsdale Lake Watershed. The surrounding area is identified as Park and Rural Residential. It is also located near the Hillsdale Lake reservoir, which is recognized in the Plan as being a public water source. Although this property is not located in an identified Area of Regional Significance, the WTP does have a regional impact, as it supplies potable water to a large portion of Miami County and a portion of Johnson County. The Plan discusses the need to plan for increased growth pressures from the north, the lack of water supply for fire protection, and the Hillsdale Lake's purpose as a water supply source. It also discusses the need to protect Hillsdale Lake from pollutants and sediments. A Stormwater Pollution and Prevention Plan (SWPPP) will be required using Best Management Practices (BMP's) in compliance with the Clean Water Act. The Stormwater Plan submitted December 21, 2020 was reviewed and approved by an independent engineer, who is contracted by IBTS. Based upon these discussions, staff believes the proposed expansion, as conditioned, conforms to the vision, goals and objectives of the Comprehensive Plan.

10. Such additional matters as may apply in individual circumstances.

The Applicant's Narrative notes that an unnamed tributary will be directed through an RCP culvert on the northwestern portion of the property, affecting stream travel through the Edwards and O'Malley properties; and, that the expansion will require the removal of existing trees for the piping construction, which may affect the views of properties to the north and west.

Screening

The WTP structures, parking areas, and lagoons shall be screened by use of landscaping, berms, or fencing from abutting properties and the street. Responses from Daniel Coltrane, of Midwest Engineering Group, LLC, indicate that landscaping will not be incorporated until Phase 3 of the project; and, that KDHE will not allow trees to be planted in the vicinity of the lagoons. In Phases 1-3 all equipment will be stored in structures, etc. for security and aesthetics.

Stormwater

Erosion control is addressed on Sheet C-SW-111. A SWPPP will be obtained before any dirt work or construction begins in order to reduce the amount of pollutants in stormwater discharges associated with the industrial activities at the WTP by utilizing BMP's. A Stormwater Plan has been reviewed and approved by an independent engineer, Jim Ferguson, PE, who is contracted with IBTS.

Easements and agreements with neighboring property owners located where the unnamed tributary will be realigned have been recorded. Mr. Coltrane has reported that the neighbors have been contacted and are in favor of the project. Natural vegetation and trees should be replaced to reduce water impacts and improve water quality.

Conclusion

The use for a WTP is already established and an expansion is needed to meet water demands in both Miami and Johnson Counties. The location of such a use demands proximity to Hillsdale Lake, which is its source of water. Approval of the CUP for expansion of the existing WTP is reasonable so long as negative impacts can be mitigated.

Staff Recommendation

Staff recommends that the Planning Commission recommend **approval** of the request based upon the Findings and subject to the following Conditions:

Findings

1. The Comprehensive Plan recognizes the need for increased water demands and recognizes Hillsdale Lake as a water resource.
2. The WTP has existed at this location since circa 1987, and it is reasonable to expect the site to expand as growth and water demands increase.
3. Based on recent real estate sales, there is no evidence to suggest that the proposed expansion to the existing WTP will detrimentally affect nearby properties or property values.

Conditions

1. Except as amended by these Conditions, the property shall be developed according to the site plan, attached hereto as **Exhibit "A"**.
2. Except as amended by these Conditions, the property shall be developed according to the Applicant's Narrative, attached hereto as **Exhibit "B"**.
3. The term of this CUP shall be for an indefinite period or until the use ceases for a period of 365 continuous days.
4. Screening of the buildings and parking areas shall be provided and maintained, where not in conflict with KDHE regulations.
5. All lighting shall be of shoebox design and directed downward to eliminate offsite glare.

Attachments:

Exhibit "A" (Site Plan)

Exhibit "B" – Pages 1 & 2 (Narrative Report)

Comments by Jim Ferguson, P.E. (regarding Stormwater Plan)

Exhibit "B" – Pages 3 & 4 (Responses from Daniel Coltrane)

Department & Agency Comments

Vicinity Map

Excerpt from the March 2, 2021 Draft Planning Commission Minutes

Public Hearing 20005-CUP: Rural Water District No. 2, Miami County – Water Treatment Facility Expansion

Reeves presented the staff report for consideration of an application for a Conditional Use Permit for a 4-phase expansion of the water treatment facility operated by Rural Water District No. 2, Miami County, per Section 8-2.02.16 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 20 acres, which is addressed as 25290 Harmony Rd, Paola, KS, is located in the SE ¼ of Section 8, Twp 16, Range 23, Marysville Twp. Submitted by Midwest Engineering Group, LLC on behalf of Rural Water District No. 2, Miami County, the property owner of record. This Application is submitted in conjunction with the request to rezone (#20004-Z) approximately 20 acres from C-O (Obsolete Zoning District) to C-2 (Commercial).

With regard to impacts to surrounding properties, Reeves reported that an unnamed tributary runs northwesterly through part of the property, which will be redirected through an RCP culvert, and which will affect the Edwards and O'Malley properties. Reeves further reported that the District has already obtained easements from these landowners. It is her understanding that the landowners are agreeable to this project. She also explained that some trees will be removed during the construction and that KDHE will not allow trees to be re-planted in the vicinity of the lagoons.

Reeves noted that screening will be required around the parking areas and around the water treatment plant.

Elliott asked if the comment provided by Road & Bridge Director J.R. McMahon needs to be added as a Condition:

“The entrance, due to the C-2 Zoning, will require a paved surface from the edge of the pavement to the ROW line.”

Reeves answered that the Applicant has addressed this, as noted in Exhibit “B” (Page 3 of 4) to the staff report.

Elliott noted that there is an email from Johnson County Fire District No. 2 that alludes to the District’s comments, but the comments appear to be missing.

Reeves read aloud the comments received from Brad Ralston, Deputy Fire Marshal regarding Site Expansion – Phase 1 (*Note: These comments were inadvertently omitted from the meeting packet*):

“Reviewed in accordance with the 2006 International Fire Code.

“1) Fire Flow. Potential Fire Flow increase will need to be met with the addition of future structures.

2) Hydrant Locations. There appears to be one (1) hydrant showing on Sheet C-SW-100 and 101 located in the SE corner of this property. Hydrant locations may need to be re-evaluated with the addition of structures.

Status: Approved Phase I with Comments.”

Elliott noted that Item “j.” of staff’s review comments to Danny Coltrane, P.E. of Midwest Engineering Group, LLC (Exhibit “B”—Page 3 of 4—to the staff report) states that the location of all proposed and existing fire hydrants should be shown. Elliott asked if this should be included as a Condition.

Reeves responded that the Planning Commission may decide whether to include this as a Condition of the CUP. She noted that the Applicant would like to speak, and Oehlert invited the Applicant to do so from the podium.

Danny Coltrane of Midwest Engineering Group, LLC (25A N. Main St., Sapulpa, OK) approached the podium and introduced himself as the project consultant for the District. Mr. Coltrane clarified that in his response to Item “j.” of staff’s review comments, he had noted that the fire hydrant locations are shown on the plan sets – specifically, C-SW-100.

Oehlert asked Mr. Coltrane to specify the number of fire hydrants.

Mr. Coltrane responded that there is currently one (1) fire hydrant, and that several more will be added during Phase 2.

Oehlert asked Reeves to read aloud the Fire District’s comment regarding fire hydrants. Reeves read aloud the following:

“2) Hydrant Locations. There appears to be one (1) hydrant showing on Sheet C-SW-100 and 101 located in the SE corner of this property. Hydrant locations may need to be re-evaluated with the addition of structures.”

Mr. Coltrane noted that the new structures will be composed of concrete and steel and will therefore have a very low fire demand. He added that the new fire hydrants will be in several areas just outside of those new structures, as the hydrants will be used for flushing and water treatment plant procedures.

Mr. Coltrane explained, regarding the requirement for a paved commercial entrance, is that their preference is not to install a hard surface until Phase 3—when the construction traffic is gone. He noted that gravel is planned to be used during Phase 1. He also noted that the internal drives are being built with compacted subgrade and compacted subbase and are set up to receive asphalt or concrete—whichever one the District decides to use—during Phase 3.

Elliott asked Mr. Coltrane about the project timeline.

Mr. Coltrane responded that Midwest Engineering is under contract for Phases 1 and 2. He reported that Phase 2 is 50% complete on the design, and that in the next three months the District’s board will decide whether it will authorize Phase 3. He further reported that the overall plan is five years to conclude construction of Phase 3.

Elliott asked if the entrance won’t be paved until Phase 3.

Reeves stated that this is the Road & Bridge Department's typical requirement for commercial entrances. She explained that the Department usually wants a construction entrance installed until everything is done so that it doesn't damage the permanent culvert.

Elliott expressed that he is concerned about the timeline because if the District chooses not to proceed with Phase 3, then the County will be unable to require the installation of a paved commercial entrance in the future.

Mr. Coltrane expressed that it would be acceptable to include as a condition of the CUP the requirement for a paved commercial entrance, as noted in the Road and Bridge Department comments. He noted that the entrance is not currently shown as a hard surface in the plan set.

Regarding impacts to surrounding properties, Mr. Coltrane reported that the trees that were planned to be removed have been removed, except for a stretch on the east side, on the north buffer. He commented that they have attempted to install all with the intent of retaining a nice hedgerow between the subject property and the neighbors. He added that the natural area is now just 30' wide, compared to the previous 150' wide natural area.

Broers referenced proposed Condition No. 4 regarding screening being required where not in conflict with KDHE regulations. She asked if there are any details concerning where KDHE might prohibit screening.

Mr. Coltrane answered that aesthetics have not yet been considered, as they are part of Phase 3, and Midwest Engineering is not yet under contract for Phase 3. He reported that the property is mowed and has existing aesthetics around the public area at the front of the property. However, screening in the back has not been prioritized as it is a non-public area and, until now, was undeveloped and natural. He noted that now that it is being developed, the plan is to mow the grass. Mr. Coltrane explained that there is an area with geothermal beds, which appears as an open area, but which consists of wires and wells underneath; therefore, adding vegetation in that area would cause problems. He reported that KDHE does not want roots penetrating the lagoon dikes on the back side of the property. He commented, however, that as many trees as possible are being retained on the north and west sides.

Mr. Coltrane then explained how the unnamed tributary will be re-directed, noting that the County had previously installed a 48" CMP (corrugated metal pipe) underneath Harmony Road, which is where the tributary will be intercepted and directed along the northwestern part of the property. He further reported that the neighbors (Edwards and O'Malley) who have signed easements with the District have had problems with flooding in their backyards and are very pleased to see that this will now be controlled.

Oehlert asked if this will be underground.

Mr. Coltrane confirmed and explained that they are utilizing a concrete stormwater system with drains.

Oehlert asked Mr. Coltrane if he is confident about the capacity of the stormwater system.

Mr. Coltrane answered that Midwest Engineering has approached this project as though it were a KDOT project and has done all of the H&H hydraulics according to the State's standards and to meet the County's regulations for a 25-year storm. He noted that runoff will be less because several acres of new ponds are being built to capture all the runoff. He explained that there are currently four non-discharging lagoons that can recycle stormwater back into the water treatment plant. However, when the area receives an overabundance of rain, the stormwater comes very close to running over their dikes. He noted, therefore, that the lagoon size is being increased and the existing recycle pumps will be retained and used as they have been.

He also reported that application has been made to KDHE for a discharge permit; and, as part of that application, an anti-degradation report has been submitted to ensure that nothing is being discharged that would pollute the stream or Hillsdale Lake. He then briefly summarized the filtration and disposal of inorganics (sand) and organics (algae) and concluded that any water discharged into Hillsdale Lake will be nearly the same quality of water as what is currently coming out of the lake. Mr. Coltrane stated that there is no anti-degradation; and he offered to share reports with the Planning Commission, if desired.

Mr. Coltrane also reported that they have received permits from KDHE for the water treatment plant, which KDHE has approved according to its minimum design standards. He further reported that Midwest Engineering has already responded to KDHE's comments, and that KDHE has not requested any changes.

Oehlert then opened the public hearing and twice invited public comment. There being no response, Oehlert closed the public hearing.

Elliott recommended adding Condition No. 6 to read as follows:

“The new entrance must be paved from the edge of the pavement to the right-of-way line. This must be completed by the end of the project or when construction ceases for a period of more than 365 days.”

Broers commented that the Road & Bridge Department's comments noted that the entrance must be paved, due to the C-2 zoning. She asked if this is a requirement in the C-1 zoning district.

Reeves answered that this is also a requirement for a CUP.

Elliott explained that he would like Condition No. 6 added because the Applicant has stated that the entrance won't be paved until Phase 3. His concern is that if Phase 3 doesn't happen for 10 years, then gravel from the entrance will be spread out onto the paved road in the meantime. He added that the reason for requiring paved commercial entrances is to prevent debris on the site from entering onto a public road.

Broers suggested that the location of all fire hydrants, including future fire hydrants, be shown on the Site Plan in order to address the Fire District's concerns.

Oehlert announced the two additional Conditions being proposed (by Elliott and Broers). There

were no objections.

Elliott moved to approve the request based upon the Findings and subject to the Conditions, as amended, in the staff report. Collins seconded, and the motion passed unanimously, 6-0.

Reeves announced that this item will go before the Board of County Commissioners on March 24, 2021 at 1:00 p.m.

Findings

1. The Comprehensive Plan recognizes the need for increased water demands and recognizes Hillsdale Lake as a water resource.
2. The WTP has existed at this location since circa 1987, and it is reasonable to expect the site to expand as growth and water demands increase.
3. Based on recent real estate sales, there is no evidence to suggest that the proposed expansion to the existing WTP will detrimentally affect nearby properties or property values.

Conditions

1. Except as amended by these Conditions, the property shall be developed according to the site plan, attached hereto as **Exhibit "A"**.
2. Except as amended by these Conditions, the property shall be developed according to the Applicant's Narrative, attached hereto as **Exhibit "B"**.
3. The term of this CUP shall be for an indefinite period or until the use ceases for a period of 365 continuous days.
4. Screening of the buildings and parking areas shall be provided and maintained, where not in conflict with KDHE regulations.
5. All lighting shall be of shoebox design and directed downward to eliminate offsite glare.
6. *The new entrance shall be paved from the edge of the pavement to the right-of-way line and shall be completed by the end of the project or when construction ceases for a period of more than 365 days.*
7. *The location of all fire hydrants, current and future, shall be shown on the Site Plan.*

From: JR McMahon <JMcMahon@miamicountyks.org>
Sent: Tuesday, January 12, 2021 3:14 PM
To: Angie Baumann <abaumann@miamicountyks.org>
Cc: Jeff McGuire <jmcguire@miamicountyks.org>
Subject: RE: Notification of Hearing & Request for Comments (2 Applications): 20004-Z - Rezone from C-O to C-2 & 20005-CUP - RWD No. 2 Water Treatment Facility Expansion

Angie,

The Road and Bridge Department has the following comment(s):

- The new entrance location on Harmony Road meets sight and spacing requirements
- The entrance, due to the C-2 Zoning, will require a paved surface from the edge of the pavement to the ROW line.

If you need anything else on this, please contact me

JR

From: jfrancis@jcf2.org <jfrancis@jcf2.org>
Sent: Friday, January 15, 2021 10:32 AM
To: Angie Baumann <abaumann@miamicountyks.org>
Cc: jfrancis@jcf2.org
Subject: RE: Notification of Hearing & Request for Comments (2 Applications): 20004-Z - Rezone from C-O to C-2 & 20005-CUP - RWD No. 2 Water Treatment Facility Expansion

Angie,

Here are the comments from the Fire District related to this proposed development.

Thanks, Jim

From: Shane Krull <SKrull@miamicountyks.org>
Sent: Tuesday, January 12, 2021 7:38 AM
To: Angie Baumann <abaumann@miamicountyks.org>
Subject: RE: Notification of Hearing & Request for Comments (2 Applications): 20004-Z - Rezone from C-O to C-2 & 20005-CUP - RWD No. 2 Water Treatment Facility Expansion

Angie:

I do not have any specific comments regarding the rezoning request. I am supportive of the RWD No. 2's ability to obtain the necessary zoning entitlement to allow for the water plant expansion.

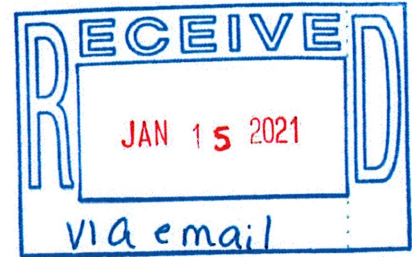
Thanks,
Shane



Johnson County Fire District #1
490 New Century Pkwy.
New Century, KS 66031

FIRE PLAN REVIEW

Date: 01/12/21
Permit:
Business/Project: Water Treatment Plant
Address/Vicinity: W 253rd St and Harmony
Occupancy Classification:
Square Feet:
Construction Type:
Project Description: Site Expansion – Phase I



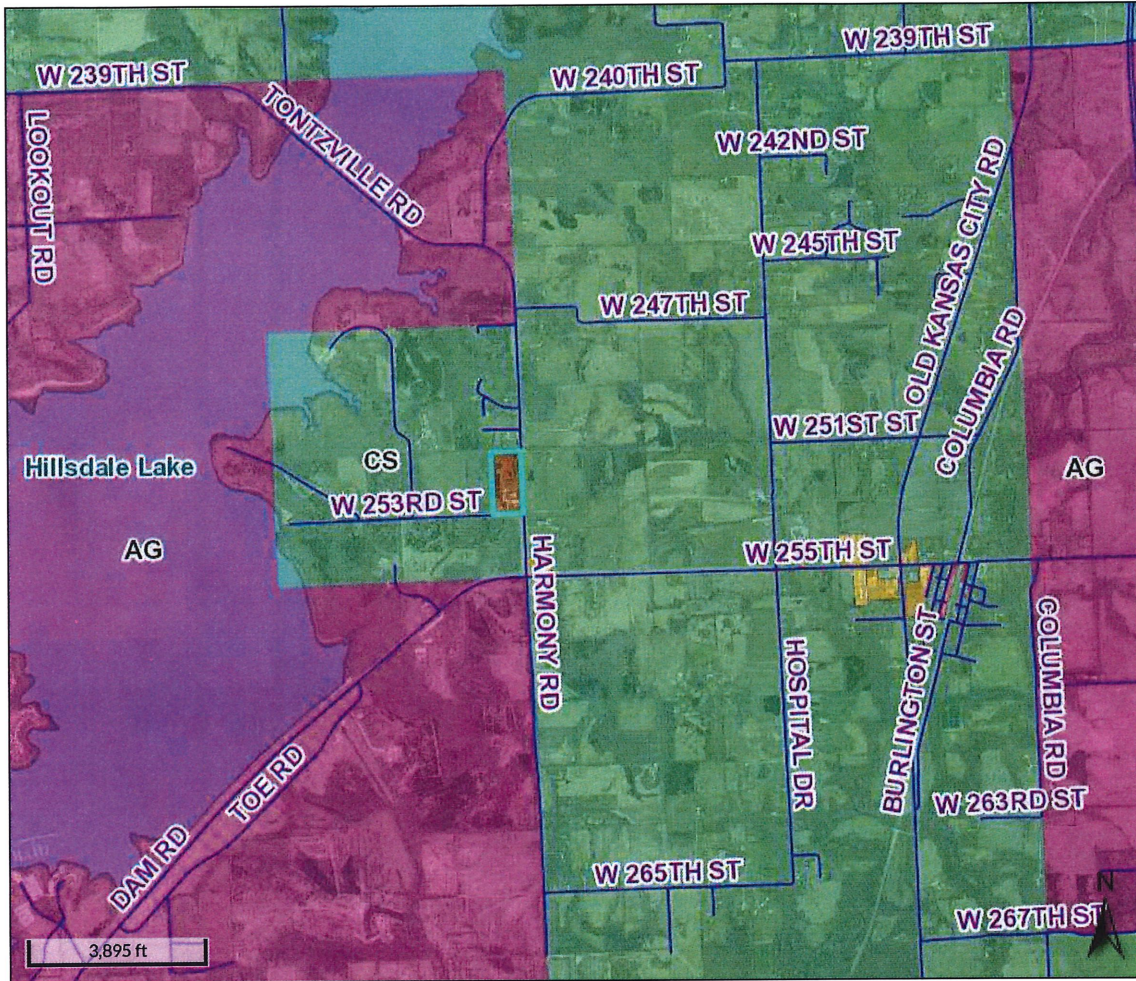
Reviewed in accordance with the 2006 International Fire Code.

Comments:

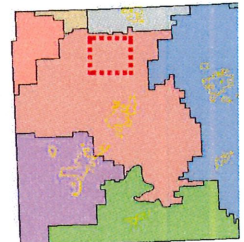
- 1) **Fire Flow.** Potential Fire Flow increase will need to be met with the addition of future structures.
- 2) **Hydrant Locations.** There appears to be one (1) hydrant showing on Sheet C-SW-100 and 101 located in the SE corner of this property. Hydrant locations may need to be re-evaluated with the addition of structures.

Status: Approved Phase I with Comments.



Reviewer: Brad Ralston – Deputy Fire Marshal



Overview



Legend

-  City Limits
-  Centerlines
-  Parcels
-  Lakes
- Zoning**
-  AG
-  BP
-  C-0
-  C-1
-  C-2
-  CITY
-  CS
-  I-1
-  I-2
-  PD
-  PRD
-  R-1
-  R-1A
-  R-3

Parcel ID= 0830800000013000
Acres= 18.931314059999998

Date created: 3/17/2021
Last Data Uploaded: 3/17/2021 7:19:21 AM

Developed by  **Schneider**
GEOSPATIAL

RESOLUTION

NO. _____

**A RESOLUTION AUTHORIZING CONDITIONAL USE
PERMIT #20005-CUP: Rural Water District No. 2, Miami County
Water Treatment Facility Expansion**

WHEREAS, the Miami County Planning Commission did hold a public hearing on March 2, 2021, in accordance with the requirements as set forth in Article 22 of the Miami County, Kansas Zoning Regulations to consider a request to approve a Conditional Use Permit for expansion of a water treatment facility, in accordance with Sections Section 8-2.02.16 of the Miami County Zoning Regulations, on the real property described in Section 1 below; and

WHEREAS, after reviewing all written and oral testimony presented at said hearing, the Planning Commission voted unanimously (6-0), to recommend that the Board of County Commissioners approve Conditional Use Permit #20005-CUP, based on the findings and subject to the conditions listed below; and

WHEREAS, the Board of County Commissioners reviewed the Conditional Use Permit request along with the recommendations of the Planning Commission on March 24, 2021, and finds that the Conditional Use Permit is substantially in compliance with the Goals and Objectives of the County's Comprehensive Plan, and as conditioned, will not adversely affect surrounding property or neighborhood values.

Section 1: Legal Description for 20005-CUP: Rural Water District No. 2 Water Treatment Facility

Beginning at the Northeast (NE) corner of the Southeast Quarter (SE ¼) of Section 8, Township 16 South, Range 23 East, Miami County, Kansas; thence West 654.31 feet and along the North line of said Quarter Section; thence South 1331.32 feet; thence East 654.31 feet to a point on the East line of said Quarter Section; thence North 1331.47 feet and along the East line of said Quarter Section to the point of beginning, containing 20.00 acres, more or less, all being the East 20.00 acres of the North one-half of the Southeast Quarter (N ½ SE ¼) of Section 8, Township 16 South, Range 23 East, Miami County, Kansas.

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI COUNTY, KANSAS, that they concur with the Planning Commission and approve Conditional Use Permit #20005-CUP for expansion of the Rural Water District No. 2 Water Treatment Facility on that real property described in Section 1, based on the findings and subject to the conditions listed below.

Findings

1. The Comprehensive Plan recognizes the need for increased water demands and recognizes Hillsdale Lake as a water resource.
2. The WTP has existed at this location since circa 1987, and it is reasonable to expect the site to expand as growth and water demands increase.
3. Based on recent real estate sales, there is no evidence to suggest that the proposed expansion to the existing WTP will detrimentally affect nearby properties or property values.

Conditions

1. Except as amended by these Conditions, the property shall be developed according to the site plan, attached hereto as Exhibit "A".
2. Except as amended by these Conditions, the property shall be developed according to the Applicant's Narrative, attached hereto as Exhibit "B".
3. The term of this CUP shall be for an indefinite period or until the use ceases for a period of 365 continuous days.
4. Screening of the buildings and parking areas shall be provided and maintained, where not in conflict with KDHE regulations.
5. All lighting shall be of shoebox design and directed downward to eliminate offsite glare.
6. The new entrance shall be paved from the edge of the pavement to the right-of-way line and shall be completed by the end of the project or when construction ceases for a period of more than 365 days.
7. The location of all fire hydrants, current and future, shall be shown on the Site Plan.

The provisions in this resolution will become effective upon the adoption by the Board of County Commissioners and publication of the adopting resolution in the Official County newspaper. All Zoning Regulations of Miami County, Kansas affecting the use of the real property heretofore described, which are inconsistent with this resolution are hereby made inapplicable to said property until the Conditional Use Permit is vacated or is declared null and void.

ADOPTED ON THIS 24th DAY OF MARCH 2021

BOARD OF COUNTY COMMISSIONERS
MIAMI COUNTY, KANSAS

BONNIE "ROB" ROBERTS, Chairman

ATTEST

TYLER VAUGHAN, Chairman Pro-tem

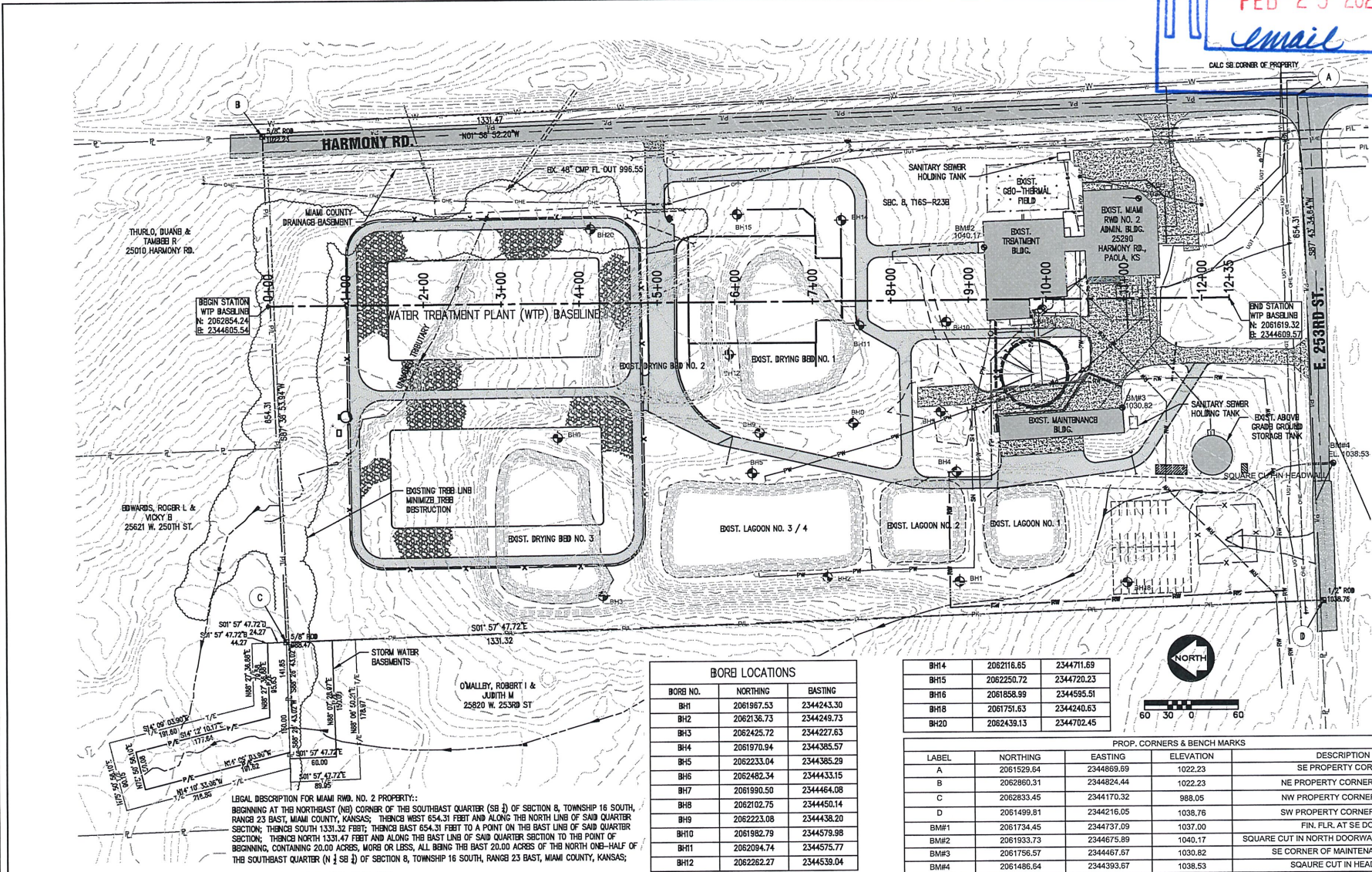
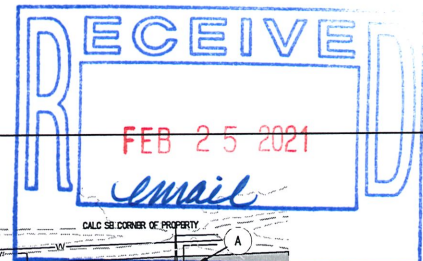
JANET WHITE, County Clerk

PHIL DIXON, Commissioner

GEORGE PRETZ, Commissioner

DANIEL GALLAGHER, Commissioner

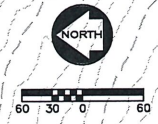
Approved as to form and legality on _____ by _____.



BORE LOCATIONS

BORE NO.	NORTHING	EASTING
BH1	2081967.53	2344243.30
BH2	2082136.73	2344249.73
BH3	2082425.72	2344227.63
BH4	2081970.94	2344385.57
BH5	2082233.04	2344385.29
BH6	2082482.34	2344433.15
BH7	2081990.50	2344464.08
BH8	2082102.75	2344450.14
BH9	2082223.06	2344438.20
BH10	2081982.79	2344579.98
BH11	2082094.74	2344575.77
BH12	2082262.27	2344539.04

BH4	2082116.65	2344711.69
BH5	2082250.72	2344720.23
BH6	2081658.99	2344595.51
BH8	2081751.63	2344240.63
BH20	2082439.13	2344702.45



PROP. CORNERS & BENCH MARKS

LABEL	NORTHING	EASTING	ELEVATION	DESCRIPTION
A	2061529.64	2344869.69	1022.23	SE PROPERTY CORNER
B	2062860.31	2344824.44	1022.23	NE PROPERTY CORNER - 1/2" ROD
C	2062833.45	2344170.32	988.05	NW PROPERTY CORNER - 1/2" ROD
D	2061499.81	2344216.05	1038.76	SW PROPERTY CORNER - 1/2" ROD
BM#1	2061734.45	2344737.09	1037.00	FIN. FLR. AT SE DOOR
BM#2	2061933.73	2344675.89	1040.17	SQUARE CUT IN NORTH DOORWAY OF FILTER BLDG.
BM#3	2061756.57	2344467.67	1030.82	SE CORNER OF MAINTENANCE BLDG.
BM#4	2061486.64	2344393.67	1038.53	SQAURE CUT IN HEADWALL

LEGAL DESCRIPTION FOR MIAMI RWD. NO. 2 PROPERTY:
 BEGINNING AT THE NORTHEAST (NE) CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 8, TOWNSHIP 16 SOUTH, RANGE 23 EAST, MIAMI COUNTY, KANSAS; THENCE WEST 654.31 FEET AND ALONG THE NORTH LINE OF SAID QUARTER SECTION; THENCE SOUTH 1331.32 FEET; THENCE EAST 654.31 FEET TO A POINT ON THE EAST LINE OF SAID QUARTER SECTION; THENCE NORTH 1331.47 FEET AND ALONG THE EAST LINE OF SAID QUARTER SECTION TO THE POINT OF BEGINNING, CONTAINING 20.00 ACRES, MORE OR LESS, ALL BEING THE EAST 20.00 ACRES OF THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER (N 1/2 SE 1/4) OF SECTION 8, TOWNSHIP 16 SOUTH, RANGE 23 EAST, MIAMI COUNTY, KANSAS;

BY: BERNARD SMITH
 DATE: 12/2/2020
 DRAWN BY: MRS
 CHECKED BY: MLC
 ISSUE DATE: 11-24-20

REV.	DATE	REVISIONS	BY	APP'D
5				
4				
3				
2				
1				

CERTIFICATE OF AUTHORITY KS: B-2900
 COPYRIGHT © 2020 - MIDWEST ENGINEERING GROUP, LLC

25-A NORTH MAIN ST., SAPULPA, OK 74066
 TEL: 918.264.9405



WATER TREATMENT PLANT EXPANSION
 RURAL WATER DISTRICT NO. 2, MIAMI COUNTY, KS

EXISTING SITE SURVEY PLAN

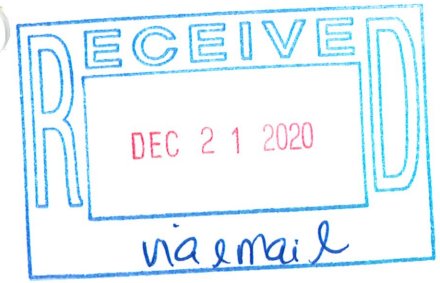
NOTES:

PROJECT NO.
 2018-MAM2-02-001

SHEET NO.
 C-SW-100

EXHIBIT A

PAGE 1 OF 1 PAGE(S)



Conditional Use Permit Narrative

I. General Description of Proposed Use:

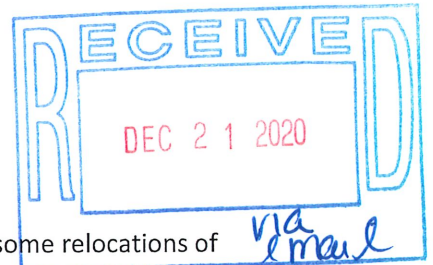
Miami Co. Rural Water District No. 2 is working to increase the capacity of the existing water treatment facility from 6 million gallons/day (MGD) existing to 12MGD. This project directly correlates with the district's strategic growth plan to meet current and future growth in the region. This project is being driven by the Board's proactive thinking to meet the needs of increased growth, new epa and state regulations, and improve operation and efficiencies within the plant and system. To reach the District's goals to provide potable water to the region at a reasonable cost, They have teamed with Midwest Engineering Group to develop a 3 phased design-bid-build construction approach. The following is a brief description of each phase:

A. Phase 1- This phase consists of balancing the earth work for all phases and completing site work for all phases; then installing process piping, pre-sedimentation basin #1, process waste piping and a duplex discharging lagoon system. This work will allow the district to replace its existing lagoon system. Doing all the excavation associated environmental impacts while allowing the district to continue uninterrupted operation of the existing plant. Phase 1 design and construction will begin immediately after permitting review. The plant will continue its current production, operations and activities for this phase.

B. Phase 2- This phase consists of the installation of an underground concrete clearwell complex which includes installation of chlorine contact basin with disinfection systems, two clearwells, wet well, backwash pump, high service pumps (HSP), and associated piping; totaling over 3 million gallons of on-site storage. Phase 2 will also include a new duplex 200gpm supernatant return pump system. There will be two buildings included within this phase, one to house the disinfection process equipment and another for the high service pump equipment. The existing above-grade ground storage tank and HSP's will be removed during phase 2. Phase 2 design and construction will begin immediately after permitting review. The plant will continue its current production, operations and activities for this phase.

C. Phase 3- This phase consists of a new chemical feed building, splitter box, rapid mix basin, pre-sedimentation basin #2 and treatment building #2. Treatment building #2 is identical and parallel to the existing 6MGD water treatment processes housed in existing treatment building #1. This expansion will allow the district to expand their production from 6MGD to 12MGD. Phase 3 design and construction may be 2 to 5 years before permitting and construction are considered. The plant will increase its current production, operations and activities for this phase to meet growth in the region from 6MGD to a maximum of 12 MGD.

D. Future Phase- This phase will be part of a future study and construction project to expand the capacity of the raw water intake and treatment facility. The treatment site has been arranged to allow for future WTP expansions in like kind, up to 18MGD within the existing site. Distribution improvements will also have to be addressed at that time. The plant will increase its current production, operations and activities for this phase to meet growth in the region from 12MGD to a maximum of 18 MGD.



II. Utilities and Infrastructure:

The Water Treatment Facility will undergo a phased expansion and will include some relocations of existing components and installation of additional components as required. Supply lines will be relocated along with other on-site utilities. A single additional entrance will be added to the east entrance off Harmony rd.

III. Impacts to Surrounding Properties:

The soil and drainage area within the property will be altered from its current state as seen on construction drawings. An unnamed tributary will be ran through RCP culvert on the northwestern portions of the property affecting stream travel through Edwards and O'Malley Properties. Trees will need to be removed as part of this piping construction which may alter views for properties on the north and west boundaries.

IV. Other:

N/A

EXHIBIT B

PAGE 2 OF 4 PAGE(S)

From: Daniel Coltrane
Sent: Thursday, February 25, 2021 6:10 PM
To: Teresa Reeves <TReeves@miamicountyks.org>
Cc: Dustin Berry
Subject: FW: review comments - RW2 expansion

Teresa,
Thanks for the comments/questions, we have added our responses below in red and the attachments above should be in the same order. Please let us know if you need additional information. We would be happy to organize a teams meeting if it would be helpful. I also included some .jpg's of our 3D rendering to help with the conceptual views.

I have a question, will this CUP work for all three phases of the project? All the projects will be back to back with minimal time in between.

Thanks, Danny

From: Teresa Reeves <TReeves@miamicountyks.org>
Sent: Wednesday, February 24, 2021 5:29 PM
To: Daniel Coltrane
Subject: review comments - RW2 expansion

Mr. Coltrane,

Listed below are staff comments / questions pertaining to the RW2 WTP expansion.

- 1) Please provide a site plan with the following information:
 - a. Show all property dimensions.
Please see attached sheet "C-SW-100 Existing Site Survey Plan" for property dimensions.
 - b. Have easements been established with abutting property owners to northwest for the proposed offsite piping to realign the unnamed tributary? Are the neighbors aware of the proposed modifications and possible impacts?
Please see attached 2 recorded easements (Edwards & O'Malley). Property owners have been contacted and are in favor of project.
 - c. RW2 will need to obtain a commercial entrance for the proposed entrance on Harmony Rd.
Please see attached "Entrance permit letter". Jeff McGuire has reviewed and approved our entrance.
 - d. Please show the distance of the new entrance to the nearest property line and show the width of the entrance and access aisles.
Please see sheet "C-SW-115-Roadway P&P 1" for entrance location and geometry.
 - e. Landscaping, screening, replacement of trees will be required. Please provide a landscaping schedule of all landscaping including grass, ground cover, trees, and shrubs, fencing, and screening that will be provided.
Please see C-SW-111 for Phase 1 seeding schedule. Landscaping will not be incorporated until Phase 3 of this project. KDHE will not allow trees to be planted in the vicinity of the lagoons. In Phases 1,2,3 all equipment will be in structures walls and attached roofs for security and aesthetics.

- f. Need to show the location and type of any outdoor lighting that will be installed. All lighting needs to be full cut-off, shoebox design with light directed downward to avoid offsite glare. **Please see attached sheet "E-PS-102, E-PW-101 & E-PW-102" for lighting placement and schedule.**
 - g. Any outdoor storage areas need to be shown on the plan and must be screened. Type and height of screening must be provided. **There will be no additional outdoor storage areas within our project phases. The Water District currently uses an existing metal building and will continue its use.**
 - h. If any new signage will be proposed, the location, size, and materials must be included to be approved by the planning commission. **There will be no new signage on this project.**
 - i. Show the location of the wastewater system for the existing and proposed buildings on the site plan. **Please see attached sheet "C-SW-100" pdf. There are 2 existing sanitary sewer holding tanks indicated on the sheet that are contractually pumped out on a periodic basis.**
 - j. Show the location of all proposed and existing fire hydrants. **An existing fire hydrant is shown on attached "C-SW-100 Existing Site Survey Plan". Phase 1 does not include additional proposed hydrants.**
 - k. Provide a note on the face of the site plan indicating that all public buildings and facilities have been designed to comply with the provisions of the ADA accessibility Guidelines (ADAAG) for buildings. **There are no proposed public buildings for this project, none of this facility is open to public except the front office. The front office is ADA compliant and has been in use for 20 plus years.**
 - l. If the District plans to request a waiver of fees for the CUP application, a letter requesting such needs to be forwarded to the Board of County Commissioners asap. Otherwise, the fees are \$770 plus postage for 22 letters mailed at 50 cents each (\$11.00) for a total of \$781, check made payable to the Miami County Planning Dept. **The water district is a non-profit public utility borrowing approximately \$32 million in KDHE SRF Funds for this project. Therefore we are requesting fees be waived for CUP for all phases.**
- 2) Comments from the Building Department will be forwarded separately.

Thank you and I apologize for the lateness of these review comments. We're also in the middle of a comprehensive plan update among other major projects and we got just a bit behind.

Please let me know if you have any questions. As soon as you can get these revisions added to the site plan, please forward to me so I can include in the planning commission packet. Otherwise, I'll add them as a condition of approval for the CUP.

Thank you,

Teresa Reeves
Planning Director

MIAMI COUNTY

STAFF REQUEST FOR COMMISSION ACTION

SUBMITTED BY: Kenneth Cook	REQUESTED MEETING DATE: March 24, 2021
DEPARTMENT: Planning	REQUESTED MEETING: <input checked="" type="checkbox"/> STUDY SESSION <input checked="" type="checkbox"/> REGULAR MEETING
CONTACT INFORMATION: 913-294-9553	PROJECT / REFERENCE NUMBER: 20002-TA: Billboard Sign Text Amendments

AGENDA ITEM / SUBJECT: Proposed Text Amendments for Billboard Signs (Off-Premises Outdoor)
ITEM BACKGROUND / DESCRIPTION: Consider the Planning Commission recommendation to amend the Zoning Regulations pertaining to Billboard Signs (Off-Premises Outdoor). Specifically, Article 2 – Definitions; and Article 18 – Signs.
REQUESTED ACTION / STAFF RECOMMENDATION: Accept the recommendation of the Planning Commission and sign the attached Resolution to approve the proposed text amendments as presented.

BUDGET IMPACT:		
BUDGET AUTHORITY:	REMAINING BUDGET ALLOCATION:	
FUND / LINE ITEM:	FUNDS BUDGETED: <input type="checkbox"/> YES <input type="checkbox"/> NO	CAPITAL PROJECT: <input type="checkbox"/> YES <input type="checkbox"/> NO



SUBMITTER'S SIGNATURE:

3/18/21

DATE:

FISCAL REVIEW

Steve Lyman
SIGNATURE:

3/18/2021
DATE:

Comments:

LEGAL REVIEW

SIGNATURE:

DATE:

Comments:

ADMINISTRATOR REVIEW

Shane Kull
SIGNATURE:

3-18-21
DATE:

Comments:

COUNTY CLERK'S OFFICE USE

Commission Action Taken:

Accepted

Denied

Postponed

Acknowledged

Date Action Taken:

Required Follow-up Date:

Publication Required:

Submitted to Publication By:

Yes No

NPG Account Number:

102898

Mail Distribution Required:

Mailed By:

Yes No

**MIAMI COUNTY PLANNING DEPARTMENT
MEMORANDUM**

DATE: March 24, 2021

TO: Board of County Commissioners

FROM: Kenneth A. Cook, AICP, CFM, Planner

RE: 20002-TA: Zoning Regulations Amendments (Billboard Signs)
Proposed text amendments to the Miami County Zoning Regulations pertaining to Billboard Signs (Off-Premises Outdoor), as recommended by the Miami County Planning Commission. Specifically, Article 2 – Definitions; and Article 18 – Signs.

Background

September 23, 2020

Mr. Fred Wingert of Wingert Sign Company and Attorney Darcy Domoney, his legal counsel, met with Miami County Planning Staff regarding possible changes to the Miami County Zoning Regulations relating to billboard signs, and requested that the Planning Commission consider his proposed amendments.

October 6, 2020

Planning staff provided Mr. Wingert's proposal to the Planning Commission at their October meeting and asked the Planning Commissioners if they would be willing to place this item on a future Agenda for a public hearing or as an item for discussion. The Planning Commission directed staff to add the item to a future Agenda as a discussion item.

November 10, 2020

The Miami County Planning Commission held a general discussion on possible future billboard sign amendments, including a presentation by Mr. Wingert detailing the changes he proposes for consideration. The Planning Commission directed staff to schedule a public hearing for January 5, 2021 and to prepare draft text amendments pertaining to billboard signs.

January 5, 2021

The Miami County Planning Commission held a public hearing concerning the proposed amendments to the Zoning Regulations pertaining to billboard signs. The Planning Commission provided feedback to staff regarding the proposed amendments; asked Planning staff to provide

additional information to assist in making a recommendation on the proposed amendments; and continued the public hearing until the February 2, 2021 Planning Commission meeting.

February 2, 2021

The Planning Commission held the public hearing, which was continued from the January 5, 2021 meeting, and provided additional direction to staff for final proposed changes. The Planning Commission continued the public hearing until the March 2, 2021 Planning Commission meeting, so that a final version of the draft amendments could be presented and considered.

March 2, 2021

The Planning Commission held the public hearing, which was continued from the February 2, 2021 meeting, and voted 6-0 to recommend approval of the proposed text amendments.

Discussion

In the last few years, Miami County has received applications for a number of billboard signs that also involved requests for variances by the Board of Zoning Appeals due to conditions that were unique to the properties and also requesting relief from portions of the current Zoning Regulations for billboard signs. Fred Wingert of Wingert Sign Company asked the Planning Commission if they would be willing to consider possible changes to the billboard sign regulations. The proposed amendments by Mr. Wingert included the following:

1. Reducing the setback of billboards from the edge of the highway right-of-way from 50' to 15'.
2. Changing the way a billboard sign's maximum height is measured (proposed to be measured from the average grade of the highway adjacent to the billboard).
3. Changing the maximum sign area allowed for a billboard sign from 750 square feet (per sign structure) to 378 square feet per sign face and a maximum of four (4) faces per sign structure, with no more than two (2) faces per side.
4. Reducing the maximum height and width of a sign from 15' x 50' to 11' x 36'.
5. Reducing the minimum spacing requirements between billboards located on the same side of the road from 1,000' to 500'.

Planning staff reviewed the State of Kansas "Highway Beautification Highway Advertising Control Act of 1972 – Revised 2006" and the billboard sign regulations of nearby counties to compare Miami County's Regulations to those of other entities. While the County's current regulations for billboard signs are generally more restrictive than the State's minimum requirements, they appear to fall in the middle when compared to other counties. (Leavenworth County and Douglas County do not permit billboard signs within their jurisdictions.)

While drafting amendments to the billboard sign regulations staff proposed additional revisions to sign regulations to make them more concise and to address areas of the sign regulations with conflicting interpretations. A primary focus was to ensure that any updates to the billboard sign

regulations follow the purpose of the sign regulations as specified in Section 18-1.01, which include the following:

1. To protect the general public from damage and injury which may be caused by the faulty and unregulated construction of signs.
2. To prevent the obstruction of traffic visibility and confusion with traffic control devices resulting from improperly placed and designed signs.
3. To ensure the visual quality of signs and preserve and promote the aesthetic quality of Miami County by reducing visual clutter.
4. To control the magnitude, placement and number of signs in the County, recognizing that signs in the County generally tend to be highly visible because of low-density development patterns and few, if any, development features or other signs which compete visually for attention, thereby necessitating controls to protect the visual integrity of the unincorporated portion of the County. (Res. R15-11-033 (Exh. A))

While the final amendments proposed for approval by the Planning Commission are not identical to Mr. Wingert's proposed amendments, they do incorporate four of his five proposed changes. (Mr. Wingert's proposed reduction in the minimum spacing requirements between billboard signs was the only item not recommended for approval because the Planning Commission found that it did not meet the purpose of the sign regulations relating to aesthetics and rural lifestyle.)

The staff report for the March 2, 2021 Planning Commission meeting and final draft amendments are attached to this report. The proposed amendments include the following:

1. New definitions for Billboard Sign Face, Billboard Sign Display, Billboard Sign Structure, Free-Standing Sign, and V-Shaped Sign;
2. Clarifying that billboard signs are not allowed within 300' of any property zoned for residential purposes;
3. A reduced setback for billboards from the highway right-of-way;
4. A minimum setback for billboards from property lines or County right-of-way;
5. Changing the way a billboard sign's maximum height is measured (proposed to be measured from the average grade at the edge of the adjacent road);
6. Increasing the maximum sign area to 756 square feet per sign facing, with two sign faces allowed per sign structure;
7. Changing the method of measuring the maximum height and width of a billboard sign face;
8. Cross-referencing the shielding requirements for lighting and the requirements for electronic (LED) signs to those sections of the sign regulations that already address these requirements;
9. Requiring that billboard signs permitted under Section 18-9.01.5 must also comply with the 1,000' minimum spacing requirement between billboards located on the same side of the road; and

10. Removing the requirement that billboard signs be located at least 1,000' from other configurations of signs (such as pole, monument or wall signs for a business).

Recommendation

Staff believes these proposed revisions support the purpose of the Zoning Regulations to promote the safety, morals, order and general welfare of the citizens of Miami County and the purpose of the sign regulations as listed in Section 18-1.01 of the Zoning Regulations. Staff recommends that the County Commission sign the attached Resolution to adopt the proposed text amendments as recommended by the Planning Commission.

Options for the Board of County Commissioners:

1. Approve the proposed revisions as recommended by the Planning Commission.
2. Override the Planning Commission's recommendation by a 2/3 vote of the County Commissioners, including denying the revisions or approving the revisions with changes.
3. Return the Planning Commission's recommendation to the Planning Commission with a statement specifying the basis for the BOCC's failure to approve or disapprove.
4. Defer for further study.

Attachments:

- Excerpt of the approved Planning Commission Minutes of November 10, 2020
- Excerpt of the approved Planning Commission Minutes of January 5, 2021
- Excerpt of the approved Planning Commission Minutes of February 2, 2021
- Excerpt of the draft Planning Commission Minutes of March 2, 2021
- Staff Report for March 2, 2021 Planning Commission Meeting
- Resolution to Adopt the proposed amendments, with proposed amendments attached thereto as **Exhibit "A"**

Excerpt of the November 10, 2020 Planning Commission Minutes

Request for Consideration of Future Billboard Sign Amendments

Reeves reported that the owner of a local sign company has approached staff and has requested making modifications to the Zoning Regulations for billboard signs. She added that this individual is present this evening, together with his legal counsel.

Reeves explained that this individual copied the current Zoning Regulations for billboard signs and highlighted, in green, his proposed changes. She noted that one of the proposed amendments reduces the maximum sign area of the billboard sign face, which would allow for a double-stacked billboard sign. Reeves noted that the two billboard signs located along US-169 Highway, between Paola and Osawatomie, were constructed by this sign company and are a model of what he is proposing.

Reeves commented that staff is not opposed to the proposed changes, which, she noted, would help businesses construct their signs more economically. She explained that this is currently just a discussion item, and is being brought to the Planning Commissioners to consider whether or not they want the item to proceed as a text amendment in the future.

Menefee asked Reeves to confirm that any proposed text amendments would require a public hearing.

Reeves confirmed, and added that the Planning Commissioners may choose to continue discussing this item; or, if the Planning Commissioners believe there has already been enough discussion, they can proceed to schedule a public hearing on the item.

Reeves reported that staff would like to work with the industry as a whole, and is seeking feedback from other sign companies with regard to the proposed changes. She added that any of the proposed changes must be in compliance with State and federal law.

Cook reported that staff has received one preliminary response from a sign company representative, who had no substantial concerns with the proposed changes. He further reported that the representative is in favor of double-stacked billboard signs, but had cautioned against reducing the minimum spacing requirements between billboard signs, and had reasoned that it could result in a proliferation of signs. Cook pointed out that although the proposed changes comply with State law with regard to minimum spacing requirements, the County has the authority to require greater separation between billboard signs than is required by the State.

Oehlert invited the interested party in the audience to speak.

Fred Wingert of Wingert Sign Company (20836 W. 91st Terrace, Lenexa) approached the podium. He explained that in 2018 his billboard sign company purchased two billboard signs along US-169 Highway and rebuilt them. He reported that his company worked with Planning staff and came

before the Board (Board of Zoning Appeals) and received approval.¹ He added that his company rebuilt the signs, using steel structures and moved the signs closer (in proximity to each other and closer in proximity to the US-169 Highway right-of-way). Mr. Wingert reported success with the two billboard signs.

Wingert stated that during the past six to nine months other businesses in Miami County have expressed interest in billboard signage on northbound and southbound US-169 Highway, so he has submitted these proposed changes to the regulations. He then described his proposed changes to Section 18-5 of the Zoning Regulations for billboard signs (*proposed changes are highlighted in green*):

18-5.02 Location:

1. Billboard signs shall not be located within 300 feet of any property zoned Planned Development, Rural Residential, Countryside, or Agricultural.
2. Billboard signs shall not be located within 50 feet **change to 15 feet** of any state or federal highway, to be measured from the edge of the right-of-way.

Mr. Wingert reported that the current setback from the US-169 Highway right-of-way is 50', from which his company received a variance for those two billboard signs on US-169 Highway. He commented that the 50' setback from the KDOT right-of-way doesn't serve a purpose. He reasoned that the property owners don't like the 50' setback because it means the sign will need to be constructed farther onto their commercial—and therefore, more valuable—property. He also reasoned that the 50' setback requirement results in the billboard sign not being as visible, which is illogical because billboard signs exist to be seen by the traveling public. Mr. Wingert stated that no part of the billboard sign would be over the right-of-way. He added that a 15' setback is a reasonable distance for trucks to access and service a billboard sign.

18-5.03 Maximum Height: Maximum Height: The top edge of any one (1) billboard sign shall not exceed 50 feet above average grade **of highway**. (Res. R15-11-033 (Exh. A))

Mr. Wingert stated that average grade varies significantly, and he gave the example of how a highway's grade increases as it crosses over a creek. He explained that he is not proposing to increase the maximum height of a sign; rather, he is proposing to allow a billboard to sit 50' above the grade of the highway. He reasoned that as the Regulations are currently written, a variance would have to be requested to increase the maximum height of a billboard sign.

18-5.04 Maximum Sign Area:

¹**Staff Note:** In 2018, the Board of Zoning Appeals granted several variances to Wingert Sign Company, two of which allowed a reduction in the minimum spacing requirement (separation) between signs to 500', instead of 1,000' and allowed a reduced setback from the US-169 Highway right-of-way.

1. The maximum sign area of any billboard sign face shall not exceed a total of 378 square feet. The maximum number of faces per billboard sign is 4 faces. The maximum number of faces per side is two.

Staff Note: In the first sentence above, “sign” was highlighted in green; however, “face” is the word that was added to this sentence. The existing regulations state: “The maximum sign area of any billboard sign shall not exceed a total of 378 square feet.”

2. The maximum height or vertical dimension shall not exceed 11 (proposed to be 4 feet smaller). The maximum width or horizontal dimension of any one (1) billboard sign face shall not exceed 36 (14 feet shorter).

Staff Note: In the first sentence above, the word “feet” should be added after “11”. In the second sentence above, the word “feet” should be added after “36”.

3. For purposes of this subsection, each face of a billboard sign, whether double-faced, V-shaped, or some other configuration, shall be considered a separate sign. (Res. R15-11-033 (Exh. A))

Mr. Wingert stated that his proposed change to No. 1 above decreases the area of the billboard sign face, and allows double-stacked signs. He explained that the amount a billboard sign company would need to charge for advertising space on a double-sided—but not double-stacked—billboard sign in order to get a return on that investment would be much greater and would be somewhat cost prohibitive to advertisers, resulting in a bad investment for the sign company.

With regard to his proposed change to No. 2 above, Mr. Wingert reported that the faces of most billboard signs in the Kansas City area are 14’ H x 48’ W. He further reported that the billboard signs have varying heights, with most ranging from 50’ to 75’ to 100’. He also noted that there are three double-stacked billboard signs south of Kansas City that measure 10’ H x 20’ W, while the two double-stacked billboard signs along US-169 Highway (between Paola and Osawatomie) measure 10-1/2’ H x 36’ W. Mr. Wingert stated that he is asking for a smaller face size, with the allowance of a double-stacked sign.

18-5.06 Minimum Spacing Requirements: No billboard sign hereafter erected shall be less than 1,000 feet Change to 500 feet from any other existing billboard sign or allowed configuration of signs on the same side of the street. Such minimum spacing distance shall be measured along the center line of the frontage street, trafficway or interstate highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street, trafficway or interstate highway. (Res. R15-11-033 (Exh. A))

Mr. Wingert reported that in 2018 his company sought approval from the County for a shorter separation distance between the two billboard signs along US-169 Highway. He noted that the State allows for a distance of 500’. He argued, with regard to any concern about the proliferation of billboard signs, that there is a reasonable limit to the amount of billboard signage needed by a community, and that at some point there aren’t any more viable advertisers. He acknowledged that a proliferation of billboard signs is possible, but he does not anticipate this result.

Mr. Wingert commented that his company tries to operate as a community partner and does not want to create “eyesores”. He noted that he is not asking for anything unusual, and explained that the two billboard signs along US-169 Highway are exactly the same as two billboard signs outside of Iola. He added that there are two billboard signs outside of Ottawa that are this same size and have this same spacing.

Kitchen agreed that reducing the minimum spacing requirement from 1,000 feet to 500 feet is reasonable, and would be a benefit to those sign companies that want to work with the same landowner. He explained that it is difficult to find a 1,000’ stretch of property along the right-of-way.

Mr. Wingert agreed, and added that the property must also be zoned Commercial or Industrial.

Ross commented that the billboard signs along US-169 Highway, which are spaced 500’ apart, do not bother him. He asked Mr. Wingert if the separation distance between those two signs is the same as what is allowed by the State.

Mr. Wingert confirmed, and added that the State allows for a 500’ separation distance between billboard signs along a highway; however, the State defers to the County, and the majority of the billboard signs in Kansas are governed by local regulations.

Ross commented that he has no issues with the proposed changes.

Elliott recalled a previous period of time when the Planning Commission discussed amendments to the sign regulations. He pointed out that the Article in the Zoning Regulations that addresses signage is 12 pages in length; therefore, he is hesitant to consider amendments to only a portion of that Article. He cautioned that once the Planning Commission entertains a request from an applicant to amend the Zoning Regulations to meet that applicant’s specific need, the Planning Commission will receive an onslaught of such requests. He commented that he does not have a concern about the proposed changes; rather, he is concerned about the process being taken to make those changes.

With regard to this evening’s General Discussion, Item B. 2. (possible future amendments to the sign regulations) Menefee asked Reeves to clarify which portion of the sign regulations staff intended to discuss

Reeves answered that the sign regulations, as a whole, are outdated.

Menefee suggested that rather than proceeding to set a public hearing for these possible amendments to the Zoning Regulations for billboard signs, the Planning Commission could instead spend some time looking at all of the sign regulations.

Reeves commented that there is not enough time to dedicate to the entire set of sign regulations, which is why she had contacted two consulting firms to get estimates for updating the sign regulations and telecommunications regulations. She reported that the cost for updating just those

two sets of regulations was estimated to be \$60,000 to \$80,000. She explained that the cost is high because these two sets of regulations are incredibly complicated and have constitutional implications. Reeves added that now that the Comprehensive Plan update is underway, we are much closer to re-writing the Zoning Regulations; therefore, she would recommend waiting to amend the sign regulations until that time.

Oehlert asked how we can continue to use outdated sign regulations.

Reeves explained that staff defers to State and federal regulations. She added that staff does not currently have the time to dedicate to updating the entire set of sign regulations. She commented that it does not make sense to re-write the sign regulations and telecommunication regulations when all of the Zoning Regulations will have to be re-written to comply with the new Comprehensive Plan.

Elliott commented that he is concerned about the interconnectivity between items, and he does not like the idea of modifying only a portion of the sign regulations without looking at the big picture.

Oehlert asked Reeves if this request from Mr. Wingert is urgent.

Reeves responded that she assumes Mr. Wingert has billboard signs that he would like to construct in the near future. She added that staff would like the entire set of sign regulations to be updated, but it would be incredibly expensive to engage a consultant, and staff does not have the time to dedicate to such a project. She noted that the Zoning Regulations are not supposed to be amended to appease one individual; rather, they should be amended with the community's best interests in mind.

Ross commented that the two billboard signs along US-169 Highway between Osawatomie and Paola are representative of what Mr. Wingert is proposing. He added that if Mr. Wingert were to request approval of new billboard signs with the same setbacks, spacing between signs, etc., he would likely receive approval.

Reeves clarified that the Mr. Wingert had to go before the Board of Zoning Appeals and get variances for the two billboard signs along US-169 Highway. She reminded the Planning Commission that each variance request that comes before the Board of Zoning Appeals is unique; however, if the same types of requests are repeatedly being made, it is an indication that the Zoning Regulations need to be amended.

Menefee commented that if text amendments could be approved to make this process less time-consuming for staff and for applicants, then that seems to be the logical solution.

With regard to the timing of a complete re-write of the Zoning Regulations, Reeves noted that the new Comprehensive Plan should be adopted in 2021.

Broers asked if the League of Municipalities or the Kansas Association of Counties have model regulations that could be utilized.

Oehlert suggested that Mid-America Regional Counsel may have model regulations.

Cook noted that the International Sign Code Association has some model regulations. He explained, however, that the difficulty we run into is the level to which cities regulate signage versus less regulation of signage in more rural areas.

Broers commented that she would be in favor of proceeding with text amendments to this portion of the sign regulations because it has been acknowledged that all of the sign regulations need to be updated; and, this is a means of doing so. She added that these seem to be simple changes; and there is no indication that the regulations specific to billboard signs are in need of a complete rewrite.

Broers moved that a public hearing be scheduled to consider text amendments to Section 18-5 of the Zoning Regulations pertaining to billboard signs. Menefee seconded the motion, and the motion passed, 8-1, by a roll call vote (Elliott voted "No").

Reeves announced that the earliest date the public hearing could be scheduled is January 5, 2021.

Excerpt of the January 5, 2021 Planning Commission Minutes

Public Hearing 20002-TA: Zoning Regulations Amendments (Billboard Signs)

Cook presented the staff report for consideration of draft amendments to the Zoning Regulations of Miami County, Kansas, pertaining to Billboard Signs (Off-Premises Outdoor). Affected regulations include Article 2 (Definitions); and Article 18 (Signs).

Cook reminded the Planning Commission that signage is considered a form of speech. Therefore, content of signage cannot be discussed. Permissible discussion includes time, place, and manner restrictions of signage, such as size, lighting, and separation distance.

Staff's recommendation is that the Planning Commission discuss the existing billboard regulations and proposed changes to provide additional feedback to staff. Staff would suggest that the public hearing for amendments to the billboard signage regulation be continued until the February 2, 2021 meeting to allow staff to make additional changes based upon the feedback received from the Planning Commission.

Cook referenced a table included in the meeting packet, which compares sign regulations of other counties in Kansas. He noted that after staff prepared this comparison table, it was discovered that Douglas County now prohibits billboard signage.

Regarding Mr. Wingert's proposed amendments to Section 18-5.03 – Maximum Height, Cook noted that the height of all signs is currently measured from the average grade to the top of the sign. Conversely, the State bases its 50' maximum height requirement off the adjacent roadway elevation. Cook noted that most of the jurisdictions he researched calculate a sign's height in the same manner as Miami County. Staff suggests that the maximum height of billboard signs should continue to be measured in the same manner as all other signs. Staff's concern with changing how maximum height is calculated is that this could result in billboard signs that are significantly taller than 50' located near a road right-of-way or a property line.

Elliott argued that the opposite would be true in the case of a roadway with an average grade that is lower than the grade of the adjacent highway. He gave the example of southbound US-169 Highway, near Miola Lake, and the roadway that is lower than the adjacent property, and explained that if a 50' tall billboard were to be constructed on either side of US-169 it will look like a monster when viewed from the roadway.

Cook agreed and explained that this provision ensures that the maximum height of a sign structure is 50'.

Ross commented that he likes the State's regulations regarding billboard height.

Cook suggested that if the Planning Commission should choose to amend how the maximum height of billboard signs is measured, adding a setback requirement from property lines, structures, or roads would be one way of preventing a 70' tall sign, for example, from being located 40' from the centerline of an adjacent County road or adjacent property line.

With regard to Maximum Sign Area, Elliott pointed out that, as currently proposed, Section 18-

5.04.1, which states that a billboard sign “shall not exceed a total of 756 square feet per sign facing . . .”, conflicts with Section 18-5.04.2, which contains height and width dimensions that would limit maximum sign area to 672 square feet:

“18-5.04 Maximum Sign Area:

1. The maximum sign area of any billboard sign shall not exceed a total of 756 square feet per sign facing with a maximum of two (2) facings. When a billboard structure includes two sign displays per facing (double decked sign), the maximum area of each display shall not exceed 378 square feet, or a total of 756 square feet per sign facing. A billboard sign may be constructed as a single faced, double-faced or V-type sign structure.

2. The maximum height or vertical dimension shall not exceed ~~fifteen (15)~~ fourteen (14) feet. The maximum width or horizontal dimension of any one (1) billboard sign shall not exceed ~~fifty (50)~~ 48 feet.

3. For purposes of this subsection, each face of a billboard sign, whether double-faced, V-shaped, or some other configuration, shall be considered a separate sign. (Res. R15-11-033 (Exh. A))”

Cook explained that these provisions, as proposed, are intended to allow a maximum sign area of 756 square feet, regardless of the size of the sign.

Elliott argued that with regard to sign facings, a V-shaped sign cannot possibly have a sign area 756 square feet on each side, based upon the provisions in Section 18-5.04.2.

Cook agreed that a V-shaped sign or any single sign could not have a maximum sign area of 756 square feet. He clarified that the maximum sign area of 756 square feet is with regard to a double-stacked sign.

Menefee asked if Section 18-5.04.1 is intended for a double-stacked sign and if Section 18-5.04.2 is intended for a single sign.

Cook agreed.

Menefee suggested that staff clarify Sections 18-5.04.1 and 18-5.04.2 in the upcoming draft amendments.

Elliott noted that it is not clear to him how Sections 18-5.04.1 and 18-5.04.2 work together. He added that if there is concern about the overall size of a sign and a sign’s ability to obstruct view or cause a distraction, then the number of signs—whether a single sign or a double-stacked sign—is irrelevant because it still poses as an obstruction or distraction.

Regarding Section 18-5.02.1 – Location, Elliott asked Cook if billboards are allowed in industrial and commercial areas only.

“18-5.02 Location:

1. Billboard signs shall not be located within 300 feet of any property zoned Planned Development, Rural Residential, Countryside, ~~or Agricultural~~ or any other property zoned for residential purpose.”

Cook confirmed and clarified that based upon the Kansas Highway Advertising Control Act, billboard signs along State and federal highways are allowed only on commercial and industrial zoned properties. The Miami County Zoning Regulations allow billboard signs on properties zoned industrial (I-1 or I-2) or commercial (C-2). He added that billboards are not allowed in the C-1 district or in obsolete zoning districts.

Regarding Section 18-5.02.2, Elliott asked how the County benefits from the proposed additional 15’ setback, especially if there is already an established right-of-way.

“2. Billboard signs shall not be located within 50 fifteen (15) feet of any state or federal highway, to be measured from the edge of the right-of-way. Billboard signs shall not be located within fifteen (15) feet of a side property line or the ultimate right-of-way of any road, street, or highway as designated by the County’s Comprehensive Transportation Plan. No billboard sign may be installed to encroach over an existing utility improvement or easement.”

Cook explained that, according to the current sign regulations, any sign must be placed outside of the ultimate right-of-way width, which is slightly greater than the current right-of-way. As a result, there is a possibility that a 50’ tall billboard sign may be located 40’ from the centerline of an adjacent County road.

Elliott argued that this could occur only in limited zoning districts.

Cook agreed, and reasoned that other structures are subject to minimum setback requirements from property lines. He noted that due to their height, billboard signs perhaps warrant additional separation from an adjoining property or from a right-of-way.

Cook added, however, that both the State and the Count require a 500’ separation from the edge of the on-ramps at an interchange. He noted that most commercial and industrial property along the highway will most likely be located at an interchange, which would provide greater separation from an adjacent County road.

Elliott commented that if the State does not impose additional setbacks from the right-of-way; and, if billboard signs can be placed along only State or federal highways, then he does not understand how the additional 15’ setback benefits the County. He added that he’s trying to simplify the Regulations.

Menefee agreed.

Broers asked how setbacks are measured.

Cook answered that setbacks are measured from the nearest point of the sign structure.

Manchester commented that he agrees with Elliott and Menefee. He reasoned that an additional setback from the right-of-way would result in a billboard sign being constructed farther onto a

property—such as a hayfield—rendering that portion of the property unusable. He added, however, that a minimum setback from adjacent property lines is a good idea.

Collins commented that shielded lighting should be required if there are no additional setbacks imposed. He reasoned that an additional 15’ setback will further protect the roadway from lighting.

Cook noted that all sign lighting is required to be shielded. He added that this provision may be found in the general sign requirements.

Collins replied that he reviewed the general sign requirements, which state that the lighting cannot interfere with the roadway, but do not specifically require shielded lighting.

Cook suggested that the lighting provisions can be modified to address this concern more specifically.

Elliott agreed with Collins and added that the County currently allows for indirect illumination on billboard signs, but does not require shielded lighting. He reasoned that an additional 15’ setback will have an impact on roadway safety, with regard to lighting.

Collins pointed out that the State and Jefferson County both require shielded lighting because there is no additional setback from the right-of-way.

Elliott commented that there appears to be inconsistency between Item No. 5, under Section 18-4.01 – General Sign Requirements and Section 18-5.06 – Minimum Spacing Requirements for billboard signs:

“Section 18-4. General Sign Requirements

18-4.01 The following general sign requirements shall apply to all signs in all zoning districts:

5. Unless otherwise provided for in these Regulations, no sign hereafter erected shall be less than 300 feet from any other existing sign or allowed configuration of signs on the same property.”

“Section 18-5. Billboard Signs (Off-Premises Outdoor)

18-5.06 Minimum Spacing Requirements:

No billboard sign hereafter erected shall be less than 1,000 feet from any other existing billboard sign ~~or allowed configuration of signs~~ on the same side of the street. Such minimum spacing distance shall be measured along the center line of the frontage street, trafficway or interstate highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street, trafficway or interstate highway. (Res. R15-11-033 (Exh. A))”

Elliott asked how to distinguish the difference between a sign that advertises a business on that same property and a billboard sign. He posed the scenario of a commercial or industrial business along the highway that wants to increase the height of their existing sign, which is not a billboard sign, which would appear to result in that sign now being considered to be a billboard sign.

Cook answered that billboard signs are intended to mean off-premises outdoor advertising. In other words, a billboard sign is advertising something that is not occurring on the property where the billboard sign is located.

Elliott asked how large a business's sign can be before it may be considered a billboard sign. He reasoned that according to Sections 18-4.01 and 18-5.06, a commercial or industrial business along the highway wanting an on-premises billboard sign advertising their business may be prohibited from doing so if the adjacent property owner has a billboard sign near the shared property line.

Cook answered that staff is proposing to strike "or allowed configuration of signs" from Section 18-5.06 because it is confusing and would appear to prevent a business owner from erecting a billboard sign if there is already a sign on that property. In addition, it would appear to prohibit a business sign from being placed on a property that has a billboard sign.

Elliott noted that he is concerned that whoever constructs a sign first has the advantage. He then reasoned that if a property has a billboard sign near the adjacent property line, this will prohibit the adjacent property from having a business sign (such as a monument sign).

Cook explained that if there is an existing billboard sign placed on a property and a business comes in and wants to install a monument sign for the business, then there needs to be a 300' separation from those two signs on that same property. He also explained that the 1,000' separation distance is only with regard to the distance between billboards signs—whether they're on the same property or on separate properties. The 300' separation is with regard to any signs on the same property.

There being no further questions for staff, Oehlert opened the public hearing.

Fred Wingert of Wingert Sign Company (20836 W. 91st Terrace, Lenexa) approached the podium, and thanked Planning staff for their work on the proposed amendments. He added that although sign content cannot be discussed, the billboard signs that his company owns and operates do not and will not advertise adult content. Mr. Wingert reported that his company owns and operates four billboard signs in Miami County—two that he recently purchased along US-69 Highway, and two along US-169 Highway. He stated that other businesses have expressed interest in advertising on billboard signs, so his company approached the Planning Department with proposed amendments to the regulations.

Mr. Wingert briefly outlined his proposed changes to the Zoning Regulations for billboard signs. Regarding Section 18-5.02.2, he believes some sort of required setback is appropriate, and a 15' setback from the right-of-way is more than enough room to service the billboard sign. With regard to Section 18-5.03 – Maximum Height, Mr. Wingert noted that his request is that this measurement be based upon the average grade of the highway. He reasoned that his company would not construct a sign that is so high that it is not visible to motorists. He commented that nobody wants to see a billboard sign that is 60', 70', or 80' in the air. With regard to Section 18-5.04 – Maximum Sign Area, Mr. Wingert commented that he is in agreement, for the most part, with staff's proposal. He stated that his company is requesting a 10-1/2' x 36' double-stacked sign (378 square feet, per sign facing) or 11' x 36'. With regard to Section 18-5.06 - Minimum Spacing Requirement, Mr.

Wingert explained that his company is requesting a 500' separation between billboard signs, which matches the State's requirements. He referenced the Planning Commission's discussion regarding highway interchanges and explained that a billboard sign cannot be located within 500' of the point where the pavement begins to widen at an exit or within 500' of the end of an on-ramp. He specified that this results in an area spanning 2,500' to 3,000' where billboard signs cannot be constructed. He reasoned, therefore, that this existing regulation further prevents proliferation of billboard signs in commercial and industrial areas along the highway. He added that there are relatively few areas along the highway that are zoned commercial or industrial.

There being no public comments, Oehlert asked for a motion to continue the public hearing. Menefee moved to continue the public hearing to the February 2, 2021 meeting, Broers seconded, and the motion carried via a roll call vote of 7-0¹.

Cook asked the Planning Commission if they have any strong preferences regarding maximum sign area, separation distance between billboard signs, or setback requirements.

Elliott asked if staff could provide for the Planning Commission a map of the County, which marks out all areas where a billboard sign could be permitted.

Cook indicated that staff can provide such a map.

Ross and Elliott commented that Section 18-5.04.2 needs to be clarified, as it is confusing, especially how it relates to 18-5.04.1.

¹ Josh Brown left the meeting at 8:00 p.m., bringing the total number of Planning Commissioners to seven (7). The two Planning Commissioners who initiated and seconded the motion (Menefee and Broers) were not queried for their votes.

Excerpt of the February 2, 2021 Planning Commission Minutes

Continued Public Hearing 20002-TA: Zoning Regulations Amendments (Billboard Signs)

Cook announced that Mr. Fred Wingert (of Wingert Sign Company) submitted his response to the staff report, copies of which have been provided this evening to the Planning Commissioners. Cook then presented the staff report for consideration of draft amendments to the Zoning Regulations of Miami County, Kansas, pertaining to Billboard Signs (Off-Premises Outdoor). Affected regulations include Article 2 (Definitions); and Article 18 (Signs).

Cook pointed out that pursuant to a request made at last month's meeting staff has added additional language to Section 18-5.05, which is based upon KDOT's regulations, and which specifies that all lighting for billboard signs must be shielded:

(Note: Proposed text is highlighted in yellow. Text that is proposed to be deleted is struck through.)

“18-5.05 Lighting: Billboard signs may be indirectly illuminated, but shall not cast glare upon any adjacent highway so as to pose a hazard to vehicular traffic. **This shall include that all lighting must be effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any highway or county road and are of such intensity or brilliance as to cause glare or to impair the vision of the driver or any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle. Electronic (LED) signs must comply with Section 18-11, Electronic Sign Regulations display a static image for a minimum of eight (8) seconds, and have an interval change time of two (2) seconds or less. Only sign structures that are classified legal conforming may be modified to LED signs. (Res. R15-11-033 (Exh. A))”**

He noted, however, that Section 18-4.01.9 (in the general sign requirements) provides that all indirectly illuminated signs “shall have lighting fixtures or luminaries that are fully shielded;” therefore, staff believes Section 18-4.01.9 sufficiently addresses this concern.

Elliott suggested that, in lieu of duplicating regulations, staff could simply cross-reference Section 18-4.01.9 in Section 18-5.05. He explained that this would ensure that if the provisions in Section 18-4.01.9 are amended in the future, the same will apply to Section 18-5.05.

Menefee agreed.

Cook requested the Planning Commission's input regarding the existing regulation, which requires a minimum spacing of 1,000' between any billboard signs (Section 18-5.06. Minimum Spacing Requirements). He reported that Mr. Wingert has requested reducing that minimum requirement to 500' but staff is recommending that the Planning Commission keep the existing 1,000' minimum spacing requirement.

Oehlert asked if there is a reason why the minimum spacing requirement is specifically 1,000'.

Cook answered that it is his understanding that the County wanted a greater separation than that

required by KDOT. He reported that nearly all the nearby counties he has reviewed have minimum spacing requirements greater than 500'; and, some that are greater than 1,000'.

He then directed the Planning Commission to the maps in the meeting packet, and explained that the maps demonstrate where future billboard signs could possibly be located on those properties adjacent to highways, which are zoned C-2, I-1, or I-2. He further explained that the maps take into consideration 500' and 1,000' separation distances between billboard signs as well as 300' separation distance from any properties zoned for residential use.

Cook noted that the spacing of the billboard signs depicted on the maps is also based upon the State's minimum setback requirement from an interchange or intersection. He has contacted KDOT to verify that he is interpreting KDOT's sign regulations accurately—especially regarding measurement of separation distance from an interchange or intersection—but has not yet received a response. Cook explained that he measured the separation distance from interchanges, beginning at the point where the pavement begins widening at an entrance, and measuring 500' from that point.

Cook pointed out that the location of a billboard sign on one property may impact whether another billboard may be placed on that same property or on an adjacent property, which is due to the current 1,000' minimum spacing requirement between billboard signs; and, the required 300' minimum spacing between billboard signs and properties zoned for residential use. He noted that there are not many industrially or commercially zoned properties in the County located adjacent to the highways so there wouldn't be a proliferation of signs throughout the entire County. However, if the 1,000' minimum spacing requirement between billboard signs was reduced, there are a few areas of the County that could see an increase in the number of billboard signs. He acknowledged that properties adjacent to the highways could possibly be rezoned in the future, resulting in additional opportunities for billboard signs.

Cook then referenced staff's suggestion (on Page 4 of 9 of the meeting packet) to modify Section 18-4.01.5 (in the general sign requirements) to specify a general minimum separation of 300' for all free-standing signs. He clarified that the purpose of this suggested amendment is to confirm that only on-premises signs detached from a structure—and not wall signs—are subject to the 300' minimum spacing requirement. Cook pointed out Page 7 of 9 of the meeting packet, which provides several scenarios demonstrating when and how the 300' minimum spacing requirement applies. He explained that if one property has a billboard sign and an adjacent property has a business sign (an on-premises sign), the 300' minimum spacing requirement would not apply because the signs are located on separate properties. However, if a property has an existing billboard sign, and a business sign (an on-premises sign) is later constructed on that same property, the 300' minimum spacing requirement would be applicable.

Cook reported that Mr. Wingert's February 1st response to the staff report expresses concern "with the ADDED REQUIREMENT on 300 feet spacing between all signs you are proposing on Page 4 of 9." Cook clarified that the *current* Regulations require a minimum 300' separation between a new sign and *any* other existing signs on the same property. Moreover, the current Regulations for billboard signs provide that any new billboard sign allowed under Section 18-5 must be located a minimum of 1,000' from "any other existing billboard sign or allowed configuration of signs on

the same side of the street.” Cook explained that the proposed removal of the phrase “or allowed configuration of signs” from the billboard sign requirements (Section 18-5.06) provides greater flexibility because the 300’ minimum spacing requirement would then be applicable between any signs—billboard signs or on-premises signs (located on the same property and on the same side of the street).

Cook then referenced Mr. Wingert’s request to add the following to Section 18-5.01:

“If the Kansas Secretary of Transportation designates US-69 as other than a scenic byway, the proposed regulation in this section would apply to US-69.”

Staff recommends retaining the existing language regarding US-69 in Section 18-5.01 and making no modifications at this time. Cook added that if the State ever decides that US-69 will no longer be designated as a scenic byway, the County can, at such time, amend the sign regulations to permit billboard signs along US-69.

Manchester referenced the following provision in Mr. Wingert’s response letter:

“The maximum height of a billboard would be measured from the road grade to match the State of Kansas Requirements and not to exceed 70 feet.”

Manchester asked about the State’s maximum height requirement for billboard signs.

Cook answered that the State calculates height based upon the grade of the adjacent roadway. He explained that the State’s maximum height requirement for billboard sign structures is 50’, as measured vertically from the edge of the pavement to the top of the sign. Cook’s understanding is that Mr. Wingert is requesting that the height of billboard signs be calculated in the same manner as the State—in other words, 50’ vertically from the pavement—but no taller than 70’, which would allow for a taller sign in those locations where the ground falls away from the roadway.

Oehlert then opened the public hearing.

Attorney Darcy Domoney of Domoney & Domoney (18 E. Wea St., Paola) approached the podium and stated that his client’s reasons for requesting amendments to the billboard sign regulations are primarily to avoid having to request variances from the County for various billboard locations that he may want to explore; and, to provide for more affordable billboard advertising for primarily Miami County businesses. He reiterated that very few locations along the highways in Miami County are zoned to allow billboard signs; and, for those locations, his client is requesting that the County’s billboard sign regulations match those of the State. Attorney Domoney commented that there does not seem to be a huge justification for the County’s current minimum spacing requirement. He assumes that the State has good reason for its 500’ minimum spacing requirement. Attorney Domoney stated that his client is requesting that 1) the minimum spacing requirement between billboard signs be reduced from 1,000’ to 500’; and 2) the height of billboards signs be measured from the road grade. He concluded that the requested amendments to the billboard sign regulations would allow for more billboards in the few areas in the County where the zoning allows for billboards.

Mr. Fred Wingert (20920 Walmer Rd., Stillwell) approached the podium, and stated that the main idea behind his request is to allow for additional billboards in locations where there are existing billboards. He explained that by doing so, it is more affordable to run power underground. He expressed that running power underground for 1,000' is very expensive, and his company is trying to build some billboard signs that are reasonably priced. With regard to maximum height, Mr. Wingert commented that although it may be unlikely that a billboard sign would need to be 70' tall it is helpful to have this flexibility in those locations where the highway rises up from the surrounding ground because of a bridge or some other reason. He further commented that there is no reason to build a billboard too tall. Mr. Wingert clarified that many, if not most, of the potential locations for future billboard signs, as shown on the maps in the meeting packet, would not be suitable locations, due to easements, rock, and lack of electricity.

Kitchen asked Mr. Wingert if any billboard signs are being constructed with solar powered lighting.

Mr. Wingert answered that he is utilizing this option in a couple of locations; however, the lifespan is only seven to ten years.

Glenn Alpert (15163 W. 323rd St., Paola) approached the podium and referenced the following proposed amendment to Section 18-5.04.3, as found shown on Page 3 of 9 of the meeting packet. (*Note: Proposed text is highlighted in yellow. Text that is proposed to be deleted is struck through.*)

~~3. For purposes of this subsection, each face of a billboard sign, whether double-faced, V-shaped, or some other configuration, shall be considered a separate sign. (Res. R15-11-033 (Exh. A))~~

“3. Each billboard sign structure shall be mounted on a single ground pole.”

Mr. Alpert stated that this does not seem to match the following proposed definition for Free-Standing Sign:

“Free-Standing Sign: A sign principally supported by one or more columns, poles, or braces placed in or upon the ground. (May also be referred to as a ground, monument, pole, or billboard sign.”

He asked if a free-standing sign has a single pole or multiple poles. He then pointed out that the word “king” in the definition for Billboard Sign Structure should be replaced with the word “kind” so that it reads “. . . and other materials of every kind and nature . . .” Mr. Alpert also asked if there are any provisions in the Regulations regarding whether a billboard sign may be placed on a building.

Elliott answered that the proposed definition for Free-Standing Sign may be found in the general sign requirements and is not exclusive to billboard signs.

Regarding whether a billboard sign may be placed on a building, Elliott added that the maximum sign area for wall signs is limited to a certain percentage of the surface area of a building's façade.

Mr. Alpert then asked if the intent is to have a single pole billboard sign.

Cook confirmed this to be the intent of the current Regulations.

Broers commented that the draft amendments, as currently proposed, appear very much to be a working draft. She asked for clarification regarding whether the public will be given another opportunity to comment on the proposed draft amendments before the Planning Commission votes upon them.

Mr. Alpert again approached the podium. Regarding the 1,000' minimum spacing requirement, he commented that if there is good reason to be more restrictive than the State then that is fine. However, if the State's 500' minimum spacing requirement is acceptable, then he suggests matching the State's requirement.

Elliott moved to continue the public hearing until next month's meeting, at which time the final version of draft amendments will be presented. Ross seconded.

Kitchen asked why the County's requirements differ from the State's.

Cook answered that he has reviewed the minutes of past meetings when the sign regulations were being discussed but was not able to find any specific reasoning for the 1,000' minimum spacing requirement. He expects that the Planning Commission's decision may have been for reasons of aesthetics, and not regarding safety.

Kitchen asked if it was previously staff's opinion that the minimum spacing requirement should be 1,000'.

Cook responded that the Planning Commission adopted this regulation, which was also adopted by the Board of County Commissioners. He explained that even if staff had suggested this requirement, staff's suggestions are often based upon direction received from the Planning Commission or the Board of County Commissioners.

Reeves recalled discussions from previous Planning Commission meetings, during which it was the Board's desire to have a 1,000' minimum spacing requirement as opposed to a lesser separation. Reeves also recalled previous Planning Commission discussions regarding maximum height. She noted that although this was the desire several years ago, the Planning Commission may change this requirement if it would like to do so. Reeves explained that the State allows counties and local jurisdictions to be more restrictive; however, the County cannot have a minimum spacing requirement that is less than the State's, nor a maximum height requirement that exceeds the State's. She agreed that previous meeting minutes indicate that the 1,000' minimum spacing requirement was determined not because of any safety studies conducted, but rather aesthetics—based upon the local community's desires. Reeves believes the State's requirements

are based upon safety studies. She also believes, especially regarding electronic signage, that the 1,000' minimum spacing requirement should be retained to avoid driver distraction.

Cook recalled from his review of previous years' meeting minutes that staff had pointed out to the Planning Commissioners that the 1,000' minimum spacing requirement did not match the State's requirement and had asked them whether they wanted to instead use the State's requirement. Cook reported that the Planning Commission directed staff to retain the 1,000' minimum.

Regarding variances for billboard signs, Cook pointed out that any variance must meet the variance standards listed in the State Statute. He then referenced the variances granted for the two (2) billboard signs along US-169, south of Paola (Wingert Sign Company), which replaced the former (2) billboard signs at that location, and reported that the variances were granted because unique conditions existed on the subject property. Had those unique conditions not been present, he assumes the variance from the 1,000' minimum spacing requirement would not have been granted. He explained that the unique conditions existing on that particular property included a number of pipelines running through the middle of the property; two existing billboard signs adjacent to one another; and the location of the highway entrance. He further explained that had one of those existing billboard signs been torn down, a new billboard sign would not have been permitted because the current billboard sign regulations would have allowed only one sign. Cook reported that the Board of Zoning Appeals took into consideration those unique conditions present on the property, and decided to grant the variances, thus allowing two new billboard signs with a reduced setback from the highway right-of-way (and a separation distance that is less than the 1,000' minimum spacing requirement).

The Planning Commission then voted upon the motion on the floor, via roll call vote. The motion carried with eight (8)¹ in favor and one (1) against (Menefee). Oehlert announced that the public hearing will be continued to the March 2nd meeting.

The Planning Commission began deliberating the proposed text amendments: (*Note: Proposed text is highlighted in yellow. Text that is proposed to be deleted is struck through.*)

Article 2 Definitions

“Billboard Sign Structure: Means and includes all components of a billboard sign, which may include poles, bracing, lateral supports, displays, and other materials of every king and nature used to support a facing or facings on which advertising is placed.”

With regard to Article 2 – Definitions, Cook reminded the Planning Commissioners that the word “king”, which appears in the definition of Billboard Sign Structure, should be replaced with “kind”.

¹ The two Planning Commissioners who initiated and seconded the motion (Elliott and Ross) were not queried for their votes.

Broers commented that she would like the proposed definitions to be tighter. She noted that the definition of Billboard Sign Structure contains the word “poles” (plural), but the text later specifies a “single ground pole” (in Section 18.5.04.3):

Section 18-5.04 Maximum Sign Area:

“3. Each billboard sign structure shall be mounted on a single ground pole.”

Broers also noted inconsistencies throughout the proposed amendments in use of the words “sign facing” and “sign face”. She pointed out that “face” is used in Section 18-4.01.4.

“Section 18-4.01.5 Unless otherwise provided for in these Regulations, no free-standing sign (such as a ground, monument, pole, or billboard sign) hereafter erected shall be less than 300 feet from any other existing free-standing sign or allowed configuration of signs on the same property.”

Regarding Section 18-4.01.5 Menefee commented that the 300’ separation between all signs is good and protects small businesses in the County. He asked if farm signs are included in this requirement, as farm signs do not require a permit.

Reeves answered that agricultural signs are exempt. She suggested that it would be a good idea to clarify this.

Oehlert agreed.

Menefee suggested also clarifying any exempt signage.

Elliott suggested language such as “any other existing free-standing *permitted* sign”, to avoid having to identify every type of exempt sign.

Section 18-5 – Billboard Signs (off-Premises Outdoor)

“18-5.01 Off-premises outdoor billboard signs greater than 64 square feet and equal to or less than ~~750~~ 756 square feet shall be permitted only in the C-2, I-1 and I-2 Districts, and only within 660 feet of the rights-of-way of I-35, K-68 and US-169, with advertising being directed only toward said rights-of-way. Billboard signs visible from US-69 and erected with the purpose of their message being read from US-69 shall be prohibited since US-69 is a scenic byway. All provisions of the Kansas Highway Advertising and Control Act must be met for any sign located within 660 feet of the rights-of-way of the above listed state and federal highways. (Res. R15-11-033 (Exh. A))”

There were no comments made regarding Section 18-5.01.

“18-5.02 Location:

- a. Billboard signs shall not be located within 300 feet of any property

zoned Planned Development, Rural Residential, Countryside, or Agricultural or any other property zoned for residential purpose, and which is located on the same side of the highway.”

Regarding the latter part of the highlighted clause in Section 18-5.02 (a): “and which is located on the same side of the highway” Broers asked if it would be contrary to the intent of these Regulations to construct a billboard sign on one side of the highway, opposite a residential zoning district, which is less than 300’ away.

Cook responded that the intent is to exclude from this consideration property that is on the opposite side of the road / highway, as the road / highway itself creates some separation.

b. Billboard signs shall not be located within 50 fifteen (15) feet of any state or federal highway, to be measured from the edge of the right-of-way. Billboard signs shall not be located within fifteen (15) feet of a side or rear property line or the ultimate right-of-way of any road, street, or highway as designated by the County’s Comprehensive Transportation Plan. No billboard sign may be installed to encroach over an existing utility improvement or easement.

With regard to the last part of the highlighted clause in Section 18-5.02 (b): “No billboard sign may be installed to encroach over an existing utility improvement or easement” Broers asked if easements are typically large enough to ensure that a utility company’s access to the easement will not be impacted in the event that a billboard sign is hanging over the easement. She asked if a setback from the easement should be considered.

Elliott commented that it should be the responsibility of the utility provider to acquire enough easement.

Cook explained that the word “improvement” was added to that clause to address those instances where an existing utility line—such as a main sewer line or old electrical line—is not within an easement. He added that staff recommends adding to that same clause “*part of a*” so that it reads: “No part of a billboard sign may be installed to encroach over an existing utility improvement or easement.”

18-5.03 Maximum Height: The top edge of any one (1) billboard sign shall not exceed 50 feet above average grade. (Res. R15-11-033 (Exh. A))

Regarding Section 18-5.03 – Maximum Height Elliott expressed that he would like to see maximum height calculated from the road grade instead of the average grade. He explained that the sight line intention is based on the roadway; and, calculating height from the road grade offers greater flexibility, especially considering the limited number of locations where billboard signs can be permitted.

Menefee agreed.

Cook noted that he included on Page 5 of 9 of the meeting packet an optional amendment for Section 18-5.03, most of which he derived from the State's regulation:

Section 18-5.03 Maximum Height: The height of any portion of the sign structure as measured vertically from the adjacent edge of the road grade of the main traveled way shall not exceed 50 feet.

Ross commented that he likes the optional amendment for Section 18-5.03, as it specifies "road grade".

Menefee commented that the proposed optional amendment also specifies the "main traveled way", which takes into consideration divided highways.

Ross asked if the maximum height should be 50' or 70'.

Elliott commented that the maximum height should be 50'. He then asked if the State regulation provides for a maximum height of 70' based upon the road grade.

Cook clarified that the State specifies a maximum height of 50' as measured from the road grade.

Section 18-5.04 Maximum Sign Area:

3. Each billboard sign structure shall be mounted on a single ground pole.

Broers commented that Section 18-5.04.3 – Maximum Sign Area seems a bit prescriptive regarding the requirement for a single pole.

Elliott commented that he believes this should be addressed from an aesthetics standpoint. He would like to know what the Planning Commission would like to see as the standard. He added that he does not necessarily have a preference regarding whether a billboard sign is mounted on several poles or a single pole.

Ross commented that he is seeing increasingly more of the single-pole billboard signs, which he thinks look much better.

Oehlert asked the Planning Commissioners if they agree with proposed Section 18-5.04.3.

Broers suggested that this particular provision would be more appropriate in the Definitions section.

Elliott and Menefee agreed.

Elliott suggested that the provision be relocated to be included in the definition for Billboard Sign Structure.

There were no objections.

18-5.05 Lighting: Billboard signs may be indirectly illuminated, but shall not cast glare upon any adjacent highway so as to pose a hazard to vehicular traffic. This shall include that all lighting must be effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any highway or county road and are of such intensity or brilliance as to cause glare or to impair the vision of the driver or any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle. Electronic (LED) signs must comply with Section 18-11, Electronic Sign Regulations display a static image for a minimum of eight (8) seconds, and have an interval change time of two (2) seconds or less. Only sign structures that are classified legal conforming may be modified to LED signs. (Res. R15-11-033 (Exh. A))

Elliott recommended that rather than adding the proposed language to Section 18-5.05 – Lighting, this provision could instead just cross-reference the provisions of Section 18-4.01.9 (in the general sign requirements). He commented that he agrees with the proposed amendments pertaining to LED signs.

There were no objections to Elliott's suggestion.

18-5.06 Minimum Spacing Requirements: No billboard sign (including billboard signs, as provided in Section 18-9.01.5 of these regulations) hereafter erected shall be less than 1,000 feet from any other existing billboard sign or allowed configuration of signs on the same side of the street. Such minimum spacing distance shall be measured along the center line of the frontage street, trafficway or interstate highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street, trafficway or interstate highway. (Res. R15-11-033 (Exh. A))

Regarding Section 18-5.06 – Minimum Spacing Requirements Elliott commented that he prefers to retain the 1,000' minimum. He provided the example of three billboard signs on the east side of US-169, south of 191st, and noted that they are spaced 1,000' apart according to *Google Earth*. If the billboard signs were spaced 500' apart, it would allow for two additional signs in that location. He expressed that five signs in that location would just be too busy.

Menefee commented that it is much easier to retain the 1,000' minimum, which, in the future could possibly be reduced to 500' if the need arises. He added that once the minimum is reduced to 500', we can't go back to 1,000'.

Elliott commented that the Planning Commission is tasked with creating Zoning Regulations for three reasons: health, safety, and welfare; and, the State Statute specifies that it is for those three reasons that the Planning Commission and the Zoning Regulations exist. Elliott noted that although he agrees that there is some welfare benefit, he does not know what portion of the people we serve will benefit. He expressed that aesthetics and rural lifestyle are a greater benefit. Elliott reported that some of the results received from the Comprehensive Plan survey speak to these very things. It is his opinion that discussions regarding the 1,000' minimum spacing requirement that have been on the books up to this point were specific to help maintain some of that rural character.

He expressed that he would hate to go away from that, especially before finishing the Comprehensive Plan.

Broers concurred.

There were no additional comments regarding Section 18-5.06.

18-5.07 Distance from Intersection: No sign shall be located adjacent to or within 500 feet of an interchange, intersection at grade or a safety rest area, with such distance measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the freeway or interstate highway. (Res. R15-11-033 (Exh. A))

Regarding Section 18-5.07 – Distance from Intersection, Cook noted that this regulation matches the State's.

The Planning Commission had no changes to Section 18-5.07.

The Planning Commission had no changes to Section 18-9.01.5 – Light Industrial (I-1) and Heavy Industrial (I-2) Sign Regulations.

Excerpt of the March 2, 2021 Draft Planning Commission Minutes

Continued Public Hearing 20002-TA: Zoning Regulations Amendments (Billboard Signs)

Cook briefly presented the staff report for consideration of draft amendments to the Zoning Regulations of Miami County, Kansas, pertaining to Billboard Signs (Off-Premises Outdoor). Affected regulations include Article 2 (Definitions); and Article 18 (Signs).

He reported that staff has made some modifications to Section 18-5.02 (b) – Location, which were not specifically discussed with the Planning Commission. He explained that such modifications were made to create a more concise provision. He further reported that, as discussed during last month’s meeting, staff has added the clause “No part of” at the beginning of the final sentence in this same Section.

(Note: Proposed text is highlighted in yellow. Text that is proposed to be deleted is struck through.)

Section 18-5 – Billboard Signs (off-Premises Outdoor)

“18-5.02 Location:

- b. Billboard signs shall not be located within ~~50~~ fifteen (15) feet of any state or federal highway, to be measured from the edge of the right-of-way. Billboard signs shall not be located within fifteen (15) feet of a side or rear property line or the ultimate right-of-way of any road, street, or highway as designated by the County’s Comprehensive Transportation Plan. No part of a billboard sign may be installed to encroach over an existing utility improvement or easement.

Oehlert then opened the public hearing and twice invited public comment. There being no response, Oehlert closed the public hearing.

Ross commented that staff has revised the draft amendments as requested by the Planning Commission.

Elliott moved to approve the draft amendments to the Zoning Regulations for billboard signs as presented. Collins seconded, and the motion passed unanimously, 6-0.

Cook announced that the draft amendments will go before the Board of County Commissioners on March 24, 2021.

**MIAMI COUNTY PLANNING DEPARTMENT
MEMORANDUM**

DATE: March 2, 2021
TO: Miami County Planning Commission
FROM: Kenneth A. Cook, AICP, CFM, Planner
RE: **Zoning Regulations Amendments (Billboard Signs)**

Background

February 2, 2021

The Planning Commission held a public hearing for proposed amendments to the Miami County Zoning Regulations regarding billboard signs. The Planning Commission directed staff to make several modifications to the proposed amendments and continued the public hearing to the March 2, 2021 Planning Commission meeting.

Discussion

Staff has updated the draft amendments to the sign regulations based upon direction received at the February 2, 2021 Planning Commission meeting. The updated proposed amendments are attached, and the following is a summary of the changes:

1. All references to sign “facing” were updated to “face” to provide consistency in the use of terms in the sign regulations. Use of “faces” (plural) and “faced” (as in double-faced sign) have been continued in the regulations.
2. The definition of Billboard Sign Structure (Article 2 – Definitions) was modified to provide that a billboard sign structure shall be mounted on a single ground pole.
3. A sentence was added to Section 18-4.01.5 (general sign requirements) specifying that “the 300-foot spacing requirement shall not be required for signs listed in Section 18-3. – Signs Not Requiring Permits”. This modification is intended to clarify that agricultural signs—and other signs that do not required permits—are not required to comply with the 300-foot spacing requirement.
4. Section 18-5.02 (b) – Location was reformatted to be more concise. In addition, staff had noted at the last Planning Commission meeting that “No part of” should be added to the beginning of the final sentence.

5. Upon the direction of the Planning Commission, the current maximum height requirement (Section 18-5.03 – Maximum Height) was replaced with the optional amendment provided by staff, which provides that height is measured from the adjacent edge of the road grade of the main traveled way.
6. Section 18-5.05 - Lighting was modified to cross-reference shielding requirements in Section 18-4.01.9.

Attachment

Proposed Text Amendments to Miami County, Kansas Zoning Regulations

Please note that all proposed text has been highlighted in yellow. Text proposed to be deleted is struck through.

PROPOSED DRAFT AMENDMENTS TO SIGN DEFINITIONS

Article 2 Definitions (sign definitions)

Billboard Sign Face: Means and includes a billboard sign display or displays at the same location and facing the same direction.

Billboard Sign Display: Means a single panel or part of a billboard sign, including trim and background, which contains a message or messages.

Billboard Sign Structure: Means and includes all components of a billboard sign, which may include a pole, bracing, lateral supports, displays, and other materials of every kind and nature used to support a face or faces on which advertising is placed. Each billboard sign structure shall be mounted on a single ground pole.

Free-Standing Sign: A sign principally supported by one or more columns, poles, or braces placed in or upon the ground. (May also be referred to as a ground, monument, pole, or billboard sign).

V-Shaped Sign: A sign structure containing two (2) faces of approximately equal size, erected upon a common structure, and positioned in a “V” shape with an interior angle between faces of not more than forty-five degrees (45°) with the distance between the sign faces not exceeding five feet (5’) at their closest point.

PROPOSED DRAFT AMENDMENTS TO ARTICLE 18 SIGN REGULATIONS:

Section 18-4.01 – General Sign Requirements

Section 18-4.01.4. Unless otherwise provided for in these Regulations, sSign area shall include the entire surface area within a single perimeter enclosing the outside limits or boundaries of such sign. Where the perimeter boundaries are irregular or are not parallel, the sign area shall be the surface of the regular geometric shape which most nearly closes the outside limits or boundaries. Only one (1) face of a ground or pole sign designed as a double-faced sign, with both faces parallel and no more than 1 foot between structures or faces, shall be considered in determining the sign area.

Section 18-4.01.5 Unless otherwise provided for in these Regulations, no free-standing sign (such as a ground, monument, pole, or billboard sign) hereafter erected shall be less than 300 feet from any other existing free-standing sign or allowed configuration of signs on the same property. The 300-foot spacing requirement shall not be required for signs listed in Section 18-3. Signs Not Requiring Permits.

Section 18-5 – Billboard Signs (off-Premises Outdoor)

18-5.01 Off-premises outdoor billboard signs greater than 64 square feet and equal to or less than 750 756 square feet shall be permitted only in the C-2, I-1 and I-2 Districts, and only within 660 feet of the rights-of-way of I-35, K-68 and US-169, with advertising being directed only toward said rights-of-way. Billboard signs visible from US-69 and erected with the purpose of their message being read from US-69 shall be prohibited since US-69 is a scenic byway. All provisions of the Kansas Highway Advertising and Control Act must be met for any sign located within 660 feet of the rights-of-way of the above listed state and federal highways. (Res. R15-11-033 (Exh. A))

18-5.02 Location:

- a. Billboard signs shall not be located within 300 feet of any property that is zoned Planned Development, Rural Residential, Countryside, or Agricultural, or that is zoned for residential purposes, and which property is located on the same side of the highway.
- b. Billboard signs shall not be located within 50 fifteen (15) feet of any of the following: (1) a state or federal highway right-of-way, to be measured from the edge of the right-of-way; (2) a side or rear property line; or (3) the ultimate right-of-way of any road, street or highway as designated by the County's Comprehensive Transportation Plan. This distance shall be measured from the nearest point of a billboard sign structure to the edge of said right-of-way or property line. No part of a billboard sign shall encroach over an existing utility improvement or easement.
- c. Billboard signs shall not be attached to the roof or wall of any building.
- d. Billboard signs shall not be located within a stream or drainage channel. (Res. R15-11-033 (Exh. A))

18-5.03 Maximum Height: The top edge of any one (1) billboard sign shall not exceed 50 feet above average grade. (Res. R15-11-033 (Exh. A)) The height of any portion of the sign structure, as measured vertically from the adjacent edge of the road grade of the main traveled way, shall not exceed 50 feet.

18-5.04 Maximum Sign Area:

1. The maximum sign area of any billboard sign shall not exceed a total of seven hundred fifty (750) square feet. The maximum sign area of any billboard sign structure shall not exceed a total of seven hundred fifty-six (756) square feet per sign face with a maximum of two (2) faces. A billboard sign structure shall include no more than two sign displays per face (double-decked sign). A billboard sign may be constructed as a single-faced, double-faced or V-shaped sign structure. A double-faced sign shall have no more than 15 feet between sign faces.
2. The maximum height or vertical dimension of a billboard sign face shall not exceed fifteen (15) thirty (30) feet. The maximum width or horizontal dimension of any one (1) billboard sign face shall not exceed fifty (50) sixty 60 feet.
3. For purposes of this subsection, each face of a billboard sign, whether double-faced, V-shaped, or some other configuration, shall be considered a separate sign. (Res. R15-11-033 (Exh. A))

18-5.05 Lighting: Billboard signs may be indirectly illuminated, but shall not cast glare upon any adjacent highway so as to pose a hazard to vehicular traffic (refer to Section 18-4.01.9 for shielding requirements). Electronic (LED) signs must shall comply with Section 18-11, Electronic Sign Regulations display a static image for a minimum of eight (8) seconds, and have an interval change time of two (2) seconds or less. Only sign structures that are classified legal conforming may be modified to LED signs. (Res. R15-11-033 (Exh. A))

18-5.06 Minimum Spacing Requirements: No billboard sign hereafter erected (including billboard signs, as provided in Section 18-9.01.5 of these regulations) shall be less than 1,000 feet from any other existing billboard sign or allowed configuration of signs on the same side of the street. Such minimum spacing distance shall be measured along the center line of the frontage street, trafficway or interstate highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street, trafficway or interstate highway. (Res. R15-11-033 (Exh. A))

18-5.07 Distance from Intersection: No sign shall be located adjacent to or within 500 feet of an interchange, intersection at grade or a safety rest area, with such distance measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the freeway or interstate highway. (Res. R15-11-033 (Exh. A))

RESOLUTION

NO. _____

**ADOPTION OF AMENDMENTS TO THE
MIAMI COUNTY, KANSAS ZONING REGULATIONS**

WHEREAS, Miami County, Kansas is authorized, pursuant to K.S.A. 12-753 *et seq.*, to adopt Zoning Regulations and amendments thereto; and

WHEREAS, Miami County did adopt comprehensive Zoning Regulations for Miami County, Kansas on September 5, 1991, and has since amended said regulations periodically; and

WHEREAS, the Miami County Planning Commission is authorized to recommend amendments to the Miami County Zoning Regulations pursuant to KSA 12-753; and

WHEREAS, County staff had recommended proposed amendments to the County's Zoning Regulations pertaining to Billboard Sign (Off-Premises Outdoor) regulations; and

WHEREAS, the Planning Commission held a public hearing regarding the proposed amendments on January 5, 2021 and continued the hearing to February 2, 2021, directing staff to provide additional information in order to assist the Planning Commission in making its recommendation and to adjust proposed language; and, the Planning Commission subsequently continued the public hearing to March 2, 2021 to ensure that the language was correct. Said public hearings were noticed in accordance with state statute, and a record and written summary of the public hearings were made; and

WHEREAS, the Planning Commission voted, by an affirmative vote of the majority present (6-0) at aforesaid March 2, 2021 hearing, to recommend that the Board of Commissioners of Miami County, Kansas approve the proposed amendments to the Miami County, KS Zoning Regulations pertaining to Billboard Signs (Off-Premises Outdoor); and

WHEREAS, the County Commission considered, at its regularly scheduled meeting on March 24, 2021, the recommendation of the Planning Commission to approve the proposed text amendments; and

WHEREAS, the County Commission, having reviewed aforesaid proposed regulations and having considered comments of staff and the public, finds the proposed amendments to the regulations governing Billboard Signs (Off-Premises Outdoor) to be in the public interest and welfare, pursuant to the following findings:

FINDINGS:

The amended regulations for Billboard Signs (Off-Premises Outdoor):

1. Relax the current regulations to allow property owners more flexibility and provide opportunity for business to be able to advertise.
2. Support the purpose of the sign regulations by: a) ensuring the visual quality of signs and preserving and promoting the aesthetic quality of Miami County by reducing visual clutter; and, b) by controlling the magnitude, placement and number of signs in the County, recognizing that signs in the County generally tend to be highly visible because of low-density development patterns and few, if any development features or other signs which compete visually for attention, thereby necessitating controls to protect the visual integrity of the unincorporated portion of the County.
3. Support the purpose of the Zoning Regulations to promote the safety, health and general welfare of the citizens of Miami County.

NOW, THEREFORE BE IT RESOLVED BY THE COUNTY COMMISSION OF MIAMI COUNTY, KANSAS, pursuant to K.S.A. 12-753 et seq., that the proposed amendments to the Miami County, Kansas Zoning Regulations, as shown in Exhibit "A", are hereby approved and that copies of aforesaid documents shall be maintained in the office of the County Clerk.

IT IS FURTHER RESOLVED BY ABOVE SAID COMMISSION that aforesaid regulations shall become effective upon publication of this Resolution in the official County newspaper.

ADOPTED ON THIS 24th DAY OF MARCH, 2021.

BOARD OF COUNTY COMMISSIONERS
MIAMI COUNTY, KANSAS

BONNIE "ROB" ROBERTS, Chairman

TYLER VAUGHAN, Chairman Pro-tem

ATTEST

JANET WHITE, County Clerk

PHIL DIXON, Commissioner

GEORGE PRETZ, Commissioner

DANIEL GALLAGHER, Commissioner

Approved as to form and legality on _____ by _____.

EXHIBIT "A"

Article 2-1 Definitions (sign definitions)

Billboard Sign Face: Means and includes a billboard sign display or displays at the same location and facing the same direction.

Billboard Sign Display: Means a single panel or part of a billboard sign, including trim and background, which contains a message or messages.

Billboard Sign Structure: Means and includes all components of a billboard sign, which may include a pole, bracing, lateral supports, displays, and other materials of every kind and nature used to support a face or faces on which advertising is placed. Each billboard sign structure shall be mounted on a single ground pole.

Free-Standing Sign: A sign principally supported by one or more columns, poles, or braces placed in or upon the ground. (May also be referred to as a ground, monument, pole, or billboard sign).

V-Shaped Sign: A sign structure containing two (2) faces of approximately equal size, erected upon a common structure, and positioned in a "V" shape with an interior angle between faces of not more than forty-five degrees (45°) with the distance between the sign faces not exceeding five feet (5') at their closest point.

AMENDMENTS TO ARTICLE 18 SIGN REGULATIONS:

Section 18-4. – General Sign Requirements

(Proposed amendments to Section 18-4.01.4 and Section 18-4.01.5 pertaining to General Sign Requirements.)

Section 18-4.01.4. Unless otherwise provided for in these Regulations, sign area shall include the entire surface area within a single perimeter enclosing the outside limits or boundaries of such sign. Where the perimeter boundaries are irregular or are not parallel, the sign area shall be the surface of the regular geometric shape which most nearly closes the outside limits or boundaries. Only one (1) face of a ground or pole sign designed as a double-faced sign, with both faces parallel and no more than 1 foot between structures or faces, shall be considered in determining the sign area.

Section 18-4.01.5 Unless otherwise provided for in these Regulations, no free-standing sign (such as a ground, monument, pole, or billboard sign) hereafter erected shall be less than 300 feet from any other existing free-standing sign or allowed configuration of signs on the same property. The 300-foot spacing requirement shall not be required for signs listed in Section 18-3. Signs Not Requiring Permits.

Section 18-5. – Billboard Signs (Off-Premises Outdoor)

(Proposed amendments to Section 18-5 pertaining to Billboard Signs (Off-Premises Outdoor).)

18-5.01 Off-premises outdoor billboard signs greater than 64 square feet and equal to or less than 756 square feet shall be permitted only in the C-2, I-1 and I-2 Districts, and only within 660 feet of the rights-of-way of I-35, K-68 and US-169, with advertising being directed only toward said rights-of-way. Billboard signs visible from US-69 and erected with the purpose of their message being read from US-69 shall be prohibited since US-69 is a scenic byway. All provisions of the Kansas Highway Advertising and Control Act must be met for any sign located within 660 feet of the rights-of-way of the above listed state and federal highways. (Res. R15-11-033 (Exh. A))

18-5.02 Location:

- a. Billboard signs shall not be located within 300 feet of any property that is zoned Planned Development, Rural Residential, Countryside, or Agricultural, or that is zoned for residential purposes, and which property is located on the same side of the highway.
- b. Billboard signs shall not be located within fifteen (15) feet of any of the following: (1) a state or federal highway right-of-way; (2) a side or rear property line; or (3) the ultimate right-of-way of any road, street or highway as designated by the County's Comprehensive Transportation Plan. This distance shall be measured from the nearest point of a billboard sign structure to the edge of said right-of-way or property line. No part of a billboard sign shall encroach over an existing utility improvement or easement.
- c. Billboard signs shall not be attached to the roof or wall of any building.
- d. Billboard signs shall not be located within a stream or drainage channel. (Res. R15-11-033 (Exh. A))

18-5.03 Maximum Height: The height of any portion of the sign structure, as measured vertically from the adjacent edge of the road grade of the main traveled way, shall not exceed 50 feet.

18-5.04 Maximum Sign Area:

- 1. The maximum sign area of any billboard sign structure shall not exceed a total of seven hundred fifty-six (756) square feet per sign face with a maximum of two (2) faces. A billboard sign structure shall include no more than two sign displays per face (double-decked sign). A billboard sign may be constructed as a single-faced, double-faced or V-shaped sign structure. A double-faced sign shall have no more than 15 feet between sign faces.

2. The maximum height or vertical dimension of a billboard sign face shall not exceed thirty (30) feet. The maximum width or horizontal dimension of any billboard sign face shall not exceed sixty 60 feet.

18-5.05 Lighting: Billboard signs may be indirectly illuminated, but shall not cast glare upon any adjacent highway so as to pose a hazard to vehicular traffic (refer to Section 18-4.01.9 for shielding requirements). Electronic (LED) signs shall comply with Section 18-11, Electronic Sign Regulations. Only sign structures that are classified legal conforming may be modified to LED signs. (Res. R15-11-033 (Exh. A))

18-5.06 Minimum Spacing Requirements: No billboard sign hereafter erected (including billboard signs, as provided in Section 18-9.01.5 of these regulations) shall be less than 1,000 feet from any other existing billboard sign on the same side of the street. Such minimum spacing distance shall be measured along the center line of the frontage street, trafficway or interstate highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street, trafficway or interstate highway. (Res. R15-11-033 (Exh. A))

18-5.07 Distance from Intersection: No sign shall be located adjacent to or within 500 feet of an interchange, intersection at grade or a safety rest area, with such distance measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the freeway or interstate highway. (Res. R15-11-033 (Exh. A))