

***MINUTES OF THE  
MIAMI COUNTY PLANNING COMMISSION  
JANUARY 5, 2021***

***MIAMI COUNTY ADMINISTRATION BUILDING  
COMMISSION CHAMBERS  
201 SOUTH PEARL STREET  
PAOLA, KANSAS 66071***

**ATTENDANCE**

|                             |  |
|-----------------------------|--|
| <b>CHAIR:</b>               | Mark Oehlert   |
| <b>VICE-CHAIR:</b>          | John Menefee   |
| <b>PLANNING COMMISSION</b>  | Kelli Broers, Joshua Brown, Kevin Collins, Phil Elliott,<br>Bret Manchester, Mark Ross |
| <b>ABSENT MEMBERS:</b>      | Randy Kitchen  |
| <b>EX-OFFICIO MEMBERS:</b>  | None present   |
| <b>PLANNING DIRECTOR:</b>   | Teresa Reeves  |
| <b>COUNTY COUNSELOR:</b>    | Sheila Schultz   |
| <b>PLANNER:</b>             | Kenneth Cook   |
| <b>PC SECRETARY:</b>        | Angie Baumann  |
| <b>ECONOMIC DEVELOPMENT</b> | None Present   |
| <b>COUNTY COMMISSION:</b>   | None Present   |
| <b>COUNTY CLERK:</b>        | Not Present  |
| <b>PRESS:</b>               | Not Present  |

## **MINUTES**

**JANUARY 5, 2021**

### **MIAMI COUNTY PLANNING COMMISSION**

#### **CALL TO ORDER**

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

#### **PLEDGE OF ALLEGIANCE**

#### **ROLL CALL**

Roll Call was taken and eight (8) members were present, constituting a quorum. Kitchen was absent.

#### **OATHS OF OFFICE**

Teresa Reeves, Planning Director, administered the Oaths of Office for Mark Oehlert and Mark Ross.

#### **ELECTION OF OFFICERS**

Reeves presented the staff report for the 2021 Planning Commission Annual Elections. Oehlert asked for nominations for Chairman. Ross nominated Mark Oehlert to serve as Chairman for a second term, and Elliott seconded. There being no further nominations, and no objections, Mark Oehlert was elected Chairman.

Oehlert then asked for nominations for Vice-Chairman. Elliott nominated John Menefee to serve as Vice-Chairman for a second term, and Collins seconded. There being no further nominations, and no objections, John Menefee was elected Vice-Chairman.

Reeves reported that the Board of County Commissioners has already appointed Ross to serve on the Board of Zoning Appeals for another term. Ross indicated his willingness to continue serving in this capacity. Elliott nominated Mark Ross to serve on the Board of Zoning Appeals, and Broers seconded. There being no further nominations, and no objections, Mark Ross was appointed to the Board of Zoning Appeals.

#### **ADOPTION OF CALENDAR**

Reeves presented the proposed Planning Commission calendar for 2021-2022. Ross moved to adopt the calendar as presented. Menefee seconded, and the motion passed unanimously, 8-0.

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

None disclosed.

## **ADOPTION OF THE AGENDA**

Menefee moved to adopt the Agenda as presented. Collins seconded, and the motion passed unanimously, 8-0.

## **CONSENT AGENDA**

- **December 1, 2020** Planning Commission Minutes.

Ross moved to adopt the Consent Agenda as presented. Menefee seconded, and the motion passed with six (6) in favor and two (2) abstentions (Broers and Elliott).<sup>1</sup>

## **REGULAR AGENDA**

### **Old Business:**

None.

### **New Business:**

#### **Public Hearing 20004-CUP: Miami County Communications Tower**

Reeves presented the staff report for consideration of an application for a Conditional Use Permit for a 250' tall communications tower, including an equipment shelter and appurtenant equipment, per Sections 6-2.01.14, and 14-2.01.4 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 5,625 square feet is located approximately 147 feet south of 399th St, and approximately 440 feet west of Metcalf Rd, in the NW 1/4 of Section 17, Twp. 19, Range 25, Sugar Creek Twp. Submitted by Trevor Wood with Selective Site Consultants on behalf of Miami County, Kansas, the applicant. Wildwood Outdoor Education Center, Inc. is the property owner of record.

Reeves reported that notice of the public hearing was mailed to six (6) property owners located within 1,000' of the proposed tower lease area; and, in response, two letters were submitted—one on December 22, 2020, which is included in the meeting packet, and one on January 4, 2021, a copy of which has been provided to the Planning Commission this evening. Reeves explained that both letters were submitted by Andrew Thompson, with Communication Enhancement, LLC, representing the tower located on the north side of 399<sup>th</sup> Street—approximately 1,000 feet northwest of this proposal. She noted that Communication Enhancement, LLC would like the opportunity to have the County collocate equipment on their existing tower, and have included an offer to the County in their second letter. Reeves noted that she forwarded this second letter today to County Administrator Shane Krull, but has not yet received his response. She also forwarded this second letter to the Sheriff's Office, which indicated that it still desires to build a separate tower, as it would be more beneficial, and more cost-effective for the County in the long-run to own the tower.

Reeves briefly addressed the applicable minimum development standards for communications towers in the Zoning Regulations.

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<sup>1</sup> Broers and Elliott abstained from the vote, as they were not present for the December 1, 2020 meeting.

**A. The applicant shall present satisfactory proof that the proposed location and use is reasonably necessary. In providing said proof, a Communication Facilities Master Plan shall be submitted to the Planning Commission for their review and approval, if a Master Plan has not yet been approved, prior to the Planning Commission acting on the conditional use permit request for a new facility (the Master Plan may be reviewed at the same hearing as the conditional use permit request). The Master Plan shall show the locations and types of existing facilities and the approximate locations, but not the types, of future facilities, for the company proposing said facility. The Master Plan shall include existing and future locations for the incorporated and unincorporated areas of the county. Any amendment to a communication company's Master Plan shall again be submitted to the Planning Commission for their review and approval.**

She explained that although the County can require a search ring, it cannot require an applicant to collocate on existing towers rather than construct a new tower.

**B. None of the above uses shall be required to comply fully with the lot size and height regulations of the zoning district in which they are located except as may be required by the conditions imposed upon the applicant.**

Reeves noted that the site consists of a 75' x 75' leased area and the height of the tower will be 250'.

**C. Such structures must be set back from all adjacent property lines and streets and highways a distance equal to not less than its height plus ten (10) feet.**

Reeves noted that the proposal does not meet the setback for a fall-zone. However, Selective Site Consultants has previously submitted engineering details, evidencing why a fall-zone would not be necessary.

**G. The tower and accessory equipment must meet all requirements of the Federal Aviation Administration. To the extent allowed by such requirements, any required lighting for such tower shall be red during time of darkness.**

She stated that lighting on the tower will be in compliance with the FAA.

Reeves then briefly highlighted two of the *Golden Criteria* to be used by the Planning Commission when making Findings to approve or deny the requested CUP:

**1. Character of the neighborhood.**

**2. The zoning and uses of property nearby.**

Reeves noted that the Planning Commission should also consider the two comment letters received from Communication Enhancement, LLC.

Staff recommends that the Planning Commission recommend approval of the request for a CUP, based upon the Findings and subject to the Conditions in the staff report. Reeves noted that if the Planning Commission finds it appropriate to ask that the Board of County Commissioners consider the offer made by Communication Enhancement, LLC there would be adequate time for the County Commissioners to explore this.

Oehlert read aloud the following from Page 2 of the staff report: “staff believes the proposed tower must comply with the fall-zone requirement.” He noted that staff did not include this as a Condition, however.

Reeves answered that because this is a requirement in the Zoning Regulations, it must be addressed. She explained that the staff report references a report previously submitted by the Valmont Structures engineer (explaining that the fall-zone requirement is not necessary); and, the Planning Commission must evaluate and determine whether that engineering report sufficiently addresses the issue.

Oehlert invited the Applicant to speak.

Trevor Wood, of Selective Site Consultants (7171 W. 95<sup>th</sup> Street, Suite 600, Overland Park), approached the podium and explained that Selective Site Consultants is a site acquisition and civil engineering firm, representing the County. He also noted that the general contractor, David Blaha of Hayden Tower Service, is also present this evening. Mr. Wood reported that the Sheriff’s Office has also utilized Tusa Consulting Services, which ultimately made the recommendation for siting the proposed facility at this location.

Mr. Wood expressed that he appreciates the comments and the offer made by Andrew Thompson of Communication Enhancement, LLC. He then referenced KSA 66-2019(f) (1-9) and noted that subsections 1-9 protect applicants such as standard wireless carriers and protect the County, which fits the definition of an applicant. He explained that a jurisdiction cannot assess the viability of adjoining towers.

Mr. Wood commented that the Sheriff’s Office has negotiated an arrangement with Wildwood Outdoor Education Center, which makes Mr. Thompson’s estimations and factual assumptions vastly inaccurate regarding the cost of ground rent. Mr. Wood asserted that the Sheriff’s Office has deployed the most cost-effective system to protect the Countywide access issues. He warned against entering into a lease with a private property owner—especially one that has made no definitive agreement regarding what they would charge in rent. Moreover, entering into such an agreement subjects the County to access provisions, which could potentially mitigate the County’s ability to access and service the tower in an emergency.

Mr. Wood asked the Planning Commission to proceed to approve this application, which has the blessing of staff. He noted that the Sheriff’s Office and its consultants, while siting the facilities for this multi-site project, have gone out of their way to be very mindful of taxpayer dollars and have endeavored to work with other public entities and public-private partnerships in ensuring that it can deploy the most effective high-speed, up-to-date wireless emergency facilities currently available.

Manchester referenced the following portion of the second letter submitted by Andrew Thompson of Communication Enhancement, LLC, dated January 4, 2021:

“While I cannot be 100% certain our tower would be structurally able to support the additional loading from the County, I would be willing to cover the cost of the structural report if the County was willing to look at collocating on our tower. I would also waive the application fee, so if the County wanted to look into the possibility of collocating on our tower, it would have zero upfront costs and nothing to lose other than 2 weeks while we waited for the structural report.”

Manchester asked if there is any reason the County should not pursue this.

Mr. Wood responded that the report Mr. Thompson is referencing comes standard with any tower ordered by the Sheriff's Office, and at no cost from the manufacturer. He cautioned that this is not necessarily a value added for the County.

Oehlert asked Reeves to confirm that the Planning Commission's responsibility this evening is not to determine whether to build a tower versus collocate on the nearby tower; oversee the allocation of funds; nor, second-guess the Sheriff's Office's decision.

Reeves confirmed and added that the Planning Commission is responsible for reviewing the current CUP application and determining whether to recommend approval. She reminded the Planning Commission that the County cannot require an applicant to collocate on another tower. She added that the Planning Commission should consider the objection letters, because they were submitted by a property owner located within 1,000 feet of the proposal. Reeves does not believe that it would be out-of-line for the Planning Commission to make a recommendation to the County Commissioners to review and consider what is being proposed by Mr. Thompson.

Oehlert asked Mr. Wood if he is confident that the six-foot (6') high chain-link fence with barbed wire will be able to keep out trespassers.

Mr. Wood responded that he has full confidence that the measures proposed will be satisfactory to keep the site protected against vandalism.

Broers asked if the County currently collocates emergency towers anywhere else.

Mr. Wood responded that the County is currently collocating on a water tank and is constructing a tower on a water treatment plant property owned by one of the rural water districts (RWD #2, Miami County). Mr. Wood added that the County is collocating on existing structures and is collocating on other public properties and partnering with those entities, wherever possible.

Broers noted that the narrative states that there were no other towers to collocate onto. She asked Mr. Wood if the existing tower within 1,000' was overlooked.

Elliott asked Mr. Wood for a specific reason for this statement.

Mr. Wood responded that based upon past experience, it was determined that the nearby tower site was not an economically viable site for this particular project.

Broers then asked when construction of the proposed tower is anticipated to be complete.

Mr. David Blaha, of Hayden Tower Service (Topeka, Kansas), responded that construction would likely be complete by no later than May 1<sup>st</sup> so as not to interfere with Wildwood's activities.

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

Mr. Glenn Alpert (15163 W. 323<sup>rd</sup> Street, Paola) asked about the ability to put other antennae on the proposed tower, and whether it could accommodate a 5G panel for other providers.

Mr. Blaha responded that the proposed tower is being designed with capacity for two additional wireless carriers, such as Verizon, AT&T, or T-Mobile, and a future capacity for the County's needs.

Topher Philgreen (3409 W. 222<sup>nd</sup> St., Bucyrus) approached the podium and stated that he is the Chief Operating Officer of Youthfront, which was previously Kansas City Youth for Christ, which owns the property adjacent to the Wildwood property. He asked who will have ownership of the tower, and who will have the authority to decide who can lease space on the tower.

Reeves responded that the Board of County Commissioners would own the tower, but would be working with the Sheriff's Office regarding the emergency radio equipment.

Oehlert asked Reeves to confirm that the proposed tower will be owned by the County, but the land would be leased from Wildwood.

Reeves confirmed.

Mr. Philgreen then asked what the process would be if another entity—other than one of the three, large wireless providers—wants to lease space on the proposed tower.

Reeves answered that collocation of equipment is allowed by right and may be initiated by applying for a building permit with the Building Department. She explained that as part of the process, it would have to be demonstrated that the tower has the structural ability to support additional equipment.

Reeves then clarified for Mr. Philgreen that prior to applying for such a building permit, any entity desiring to lease space on the proposed tower would need to talk with the County to find out if the County would be agreeable to doing so. She clarified that this would not require a public hearing.

There being no further public comment, Oehlert closed the public hearing.

Ross commented that the proposed tower is what the Sheriff's Office has decided to do, and the Planning Commission should follow through.

Manchester commented that there are two options—one that costs significantly more than the other—for someone above the Planning Commission to consider regarding taxpayer dollars. He noted that Mr. Thompson’s letter states that it would take two weeks to obtain more information.

Menefee stated that it is his understanding that the County Commission has been made aware of this letter.

Reeves clarified that she anticipates that County Administrator Shane Krull will likely present this most recent letter to the County Commissioners during tomorrow’s work session.

Menefee commented that the Planning Commission is tasked with looking at the facts and determining whether the requested CUP fits the Zoning Regulations, and he believes it does. He reasoned that the Planning Commission’s approval of the CUP would not restrict the County Commissioners’ ability to proceed with collocation, if they were to determine that collocation makes more sense.

Manchester agreed.

Menefee then moved to approve 20004-CUP, based upon the Findings and subject to the Conditions in the staff report. Elliott seconded the motion, and the motion passed unanimously, 8-0<sup>2</sup>, via a roll vote.

Reeves announced that this will go before the Board of County Commissioners on January 27th at 1:00 p.m.

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## Findings

1. The requested use, as conditioned, will be compatible with the surrounding zoning and character of the neighborhood.
2. The proposed communications tower will provide essential coverage for emergency communications to protect and benefit the health, safety, and welfare of the citizens and visitors of Miami County.
3. With the Valmont Structures engineering report, sufficient evidence has been provided that a fall zone is not necessary, and there is no evidence to suggest that the requested use will detrimentally affect nearby properties.
4. The Consulting Firms representing the County have determined it is in the County’s best financial interest over the long run to construct this tower.

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<sup>2</sup>The two Planning Commissioners who initiated and seconded the motion (Menefee and Elliott) were not queried for their votes.

## Conditions

1. Except as amended by these Conditions, the property shall be developed according to the site, attached hereto as Exhibit "A".
2. Except as amended by these Conditions, the property shall be developed according to the applicant's narrative report, attached hereto as Exhibit "B".
3. Development shall comply with all local, state, and federal codes and permit requirements that are applicable.
4. The tower shall be removed within six (6) months of cessation of use as a communications tower.

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### 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 County 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. 91<sup>st</sup> 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 7-0<sup>3</sup>.

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.

## **GENERAL DISCUSSION**

### **Possible Future Amendments to Zoning and Subdivision Regulations**

1. Common Access Easement requirements
2. Sign Regulations
3. Telecommunications Regulations

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<sup>3</sup> 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.

4. Height limits for radio, television, internet antennas and satellite dishes designed for individual residences.

Reeves noted that these possible text amendments are on hold until the completion of the Comprehensive Plan update. There were no objections.

#### ANNOUNCEMENTS BY STAFF / COMMISSIONERS

Reeves announced that the Comprehensive Plan consultant has requested that the Planning Commission Workshop take place during the week of May 24<sup>th</sup>. She explained that the workshop will be two hours in total length. Reeves queried the Planning Commissioners regarding their availability that week. Broers cautioned against scheduling anything on that Thursday or Friday, due to the Memorial Day holiday. Menefee asked if the workshop will be held virtually or in-person. Oehlert suggested scheduling the workshop on a different week. The Planning Commissioners asked that staff circulate a survey to determine availability.

There being no further announcements, Oehlert asked for a motion to adjourn. Ross moved to adjourn the meeting, Menefee seconded, and the meeting was adjourned by unanimous vote at 9:13 p.m.

Approved this 2nd day of February, 2021.

  
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Angie Baumann, PC Secretary

  
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Chair, Mark Oehlert / Vice-Chair, John Menefee

Minutes taken by Angie Baumann