

**MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
November 7, 2022**

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

ATTENDANCE

CHAIR:	John Menefee
VICE-CHAIR:	Phil Elliott
PLANNING COMMISSION	Joshua Brown, Bret Manchester, Topher Philgreen, and Randy Kitchen
ABSENT MEMBERS:	Kelli Broers, Mark Oehlert, and Mark Ross
EX-OFFICIO MEMBERS:	None present
PLANNING DIRECTOR:	Teresa Reeves
ASST. PLANNING DIRECTOR:	Not present
PLANNER:	Not present
PC SECRETARY:	Casey d'Augereau
COUNTY COUNSELOR:	Shelley Woodard
ECONOMIC DEVELOPMENT	Not present
COUNTY COMMISSION:	None Present
COUNTY CLERK:	Not Present
PRESS:	Not Present

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CALL TO ORDER

Chairman John Menefee called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll Call was taken with six (6) members present, making a quorum.

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

There were none.

ADOPTION OF THE AGENDA

Philgreen moved to move Lewis Meadows (22010-SUB(F)) to the regular agenda under New Business, and to adopt the remaining agenda as presented. Elliott seconded, and the motion passed unanimously (6 - 0), via a show of hands.

CONSENT AGENDA

- Minutes: Approval of the October 4, 2022, Planning Commission Minutes
- Minutes: Approval of the September 20, 2022, Solar Farms Workshop Minutes
- Burkhart Acres: 22008-SUB(F), removing conditions accidentally left on as published.
- Highland Hills Replat: 22009-SUB(F),
- Lewis Meadows: 22010-SUB(F), moved to regular agenda under New Business.
- Reign Meadows: 22011-SUB(F), Conditions 1 - 3 were met, Condition 4 does not apply and will be removed.

Elliott moved to approve the consent agenda per above revisions. Manchester seconded, the motion passed unanimously 6 - 0, via show of hands.

REGULAR AGENDA

Old Business: None.

New Business:

22010-SUB: Final Plat of Lewis Meadows

Consideration of the Final Plat of Lewis Meadows, dividing approximately 54.49 acres into three lots of 15.92 acres; 17.44 acres; and 17.49 acres, utilizing the Standard Subdivision criteria in the Countryside zoning district per Section 5-5.02.1(A) of the Miami County, Kansas Zoning Regulations. The subject property is located at the northeast corner of 311th St and Rogers Rd, in the Southeast Quarter of Section 18, Township 17S, Range 25E, Middle Creek Twp. Submitted by Misty L Cole, Christopher Lewis, and Rebecca A Nelson, Trustees of the Thomas E. Lewis Revocable Trust dated August 23, 2011.

Reeves stated Lewis Meadows is a final plat dividing a tract of approximately 54.4 acres into 3 lots that are approximately 15, 17, and 17.5 acres. Rogers Rd provides access to two (2) residences. Rogers Rd is identified as a Local Rd per the 1995 CTP Map with 40-feet of half-width right-of-way. The current improved surface width of Rogers Rd is an average of 10 – 12 feet which is substandard and is required to be improved to a minimum width of 24 feet per Section 5-3.12 of the Subdivision Regulations. It should be noted that the Fire Code requires a 20-foot-wide improved surface rather than 24-feet as required by the Subdivision Regulations. Staff typically allows an average improved surface width of 20 – 24 feet wide. The applicant is asking for an exception to the road improvement since it's not increasing the density along this road and the road dead-ends north of the subject property. Reeves stated if the exception is approved the Planning Commission will need to consider removing Condition 1 that would require the applicant to improve the road at their expense. Staff would not be opposed to that since the road basically serves two (2) residents and there would not be added density to the road.

Menefee asked if lots 2 and 3 are getting their access from 311th St. Reeves stated yes, and they will have to show a common access between those two lots which is listed as Condition 2.

Elliott stated he doesn't find a comment from Road & Bridge on this Subdivision. Reeves stated she doesn't recall if they responded to this one or not but will double check.

Menefee stated Condition 2 states "The common access easement located between Lots 3 and 4", he doesn't see a Lot 4 on the plat. Reeves stated it should say between Lots 2 and 3.

Kitchen asked what is normally done with the roads in this situation. Reeves stated normally they would be required to make improvements to the road which would include widening the road, improving the ditches, and improving the surface to 20 – 24 feet. Kitchen asked why we wouldn't just make it a condition. Reeves stated this is unique in the fact that it dead ends past the applicant's property. Menefee stated another difference is we aren't adding additional maintenance to that road. Reeves agreed. Kitchen asked if it would be the same if it were a minimum maintenance road. Reeves stated a minimum maintenance road would be required to be improved up to or just past the driveway.

Elliott asked if this is the primary access for the property to the north and west. Reeves stated yes. Elliott if the property directly north of this plat is a single tract with a residence on it? Reeves confirmed and noted that they take access from Metcalf.

Elliott asked if responses from agencies are made before or after they have seen the conditions. Reeves stated before.

Elliott moved to approve Final Plat 22010-SUB, removing Condition 1, changing Condition 2 to state Lots 2 and 3, and as otherwise presented. Brown seconded; the motion passed 5 – 1 (Kitchen opposed).

22009-CUP: The Barrel Public Hearing

Reeves presented the staff report for consideration of an application for conditional use permit for an Event Center, including weddings, corporate, celebrations, music, family and agricultural per Section 6-2.02.33 of the Miami County Zoning Regulations. The subject property contains approximately 20 acres and is located at the Northeast corner of K-68 Hwy and Cedar Niles Rd, in the SE ¼ of Section 29, Twp 16, Range 23, Marysville Twp. Submitted by, Amy Pearson, property owner of record.

Reeves stated the applicant would like to have an event venue that would allow for weddings, corporate events, and various celebrations. The applicant also plans to include some agricultural and agritourism uses on the property such as sunflowers, fruit trees, hay, and flowers both gardened and wild. The applicant estimates the maximum number of people at any one event will be 250 and plans to operate the facility 7 days per week. The number of events anticipated is 20 to 30 days per month which averages out to be 240 to 360 events annually. Reeves stated the applicant is present tonight and there are some questions that the applicant may be able to further address:

- What is the ratio of staff members to attendees? If 250-attendees are anticipated at each event, how many employees will be in attendance? Planning is needing specific details on the number of employees working at each event.
- What is the ratio of security staff to attendees? Based on the anticipated attendance of 250-people, how many security members will be in attendance? Are these off duty law enforcement officers? Do they have security training?
- Are vendors hired by the clients renting the facility or by the facility owner?
- Will a cleaning service be onsite after each event?

Reeves stated the parking has some discrepancies on the site plan:

- The site plan “Notes” the parking lot will have 106 spaces located west of the event building, however, 111 spaces are delineated on the site plan. The number in the notes needs to be revised.
- The site plan specifies that a 48-inch-tall picket fence will be used as screening around the parking lot. The spacing between fence slats will not provide sufficient screening. Unless the boards are moved closer together, intermittent landscaping and/or berming will also be needed to ensure the parking area is adequately screened.

Reeves stated there are some things with the roads and traffic to consider:

- The Corridor Management Plan identifies K68 as a Moderate Order / Partial Access controlled route meaning it may be built as an expressway but is not intended to be upgraded to a freeway, and access should be limited to public roads only. As such, commercial access to and from the site must be relocated to Cedar Niles Rd and access restricted from K-68, which will require removal of the existing access on K-68 once access is relocated to Cedar Niles Rd.
- The 1995 Comprehensive Transportation Plan Map identifies Cedar Niles Rd as a Local Rd with 80 feet total width of “ultimate” right-of-way. The current right-of-way width on this section of road is 40 to 50 feet total, with an average improved surface width of 20-feet. Additional right-of-way will need to be dedicated along this side of the road to comply with the 80-foot width requirement and dust control will need to be applied annually from K-68 to the new commercial entrance location on Cedar Niles Rd.
- Parking is not allowed on any access drives, county roads, or K68. Also, the fire lane (minimum of 20 feet in width) needs to remain open at all times with no parking allowed. “No Parking” signs must be posted along the fire access lane to ensure it remains clear.

Reeves stated there will be specific requirements for lighting and signs:

- The site plan specifies all exterior lighting will be shielded to minimize off site light shed with wall sconces, can type lighting in the ceilings for patios, and low to the ground ambient type lighting for the parking lot. To ensure compliance with the Zoning Regulations, the applicant will be required to supply details of the lights with the building permit application. Lights will need to be of a shoebox design with no bulb exposure to eliminate any offsite glare with the exception of pathway lighting that will need to be very dim.

- A 3' x 6' wooden sign, 6' tall is proposed at the entrance to the facility off of K68 Hwy. The area of the sign complies but the height of the sign does not comply with the Zoning Regulations. The sign cannot exceed 5 feet in height. In addition, it is unclear on the site plan whether the proposed sign will be located out of the ultimate right-of-way of K-68. It is assumed that the sign will be located at the entrance of the facility which needs to be relocated to Cedar Niles Rd. If an additional sign is proposed along K68 Highway, that needs to be shown as well with area and height dimensions. A sign permit will need to be obtained from the Planning Dept in addition to a building permit from the Building Dept, and the applicant will need to verify whether a sign permit is needed from KDOT. The signage requirements for the Agricultural zoning district are listed below:
 - For churches, schools and other similar types of buildings and uses allowed in this district, one (1) non-illuminated, indirectly illuminated, internally illuminated, directly illuminated, monument sign, which shall not exceed five (5) feet in height, nor exceed forty (40) square feet in area per face, and/or one (1) non-illuminated wall sign not to exceed ten percent 10% of the total surface area of the façade upon which it is placed.
 - The sign requirements for the most analogous district may be used for consideration of the signage that is allowed by the Planning Commission.

Reeves stated the facility is going to be a one-story structure to include a caterer's prep kitchen, serving area, ADA compliant restrooms, Groom's Suite, Bridal Suite, storage area, a 240-square foot covered patio on the south side, and a 1,500 square foot outdoor patio with pergola on the east side of the structure.

- A fire hydrant is located on the site plan northeast of the event building, within 50-feet. Emergency Management Coordinator, Mark Whelan recommended that the hydrant be relocated closer to the parking lot and access drive and farther away from the building. The revised site plan received 11/2/22 shows the fire hydrant in the same location as the initial submission. If approved the fire hydrant will need to be amended on the site plan.
- The applicant plans to have outdoor meetings and ceremonies centrally located on the property with gardens around the outside. This area, including the gardens, needs shown on the site plan. The property will be restricted from outdoor receptions to reduce noise and negative impacts on the surrounding neighbors. Doors to the facility will be required to remain closed during the receptions and when music is playing.
- The applicant does not currently live on the property, but it is Staff's understanding (need to confirm with applicant as Reeves doesn't want to put words in applicant's mouth) she plans to move onto the property.
- The applicant needs to submit a detailed floorplan and obtain a Wastewater Permit from Environmental Health, the applicant has been working with Environmental on this. It may trigger the need for KDHE's approval.

Reeves stated per regulations the Planning Department mailed notification to the surrounding property owners within 1,000 feet of the applicant as well as posted a sign at each the K68 entrance and Cedar Niles entrance and publication in the newspaper. Although the Planning Department did not receive any written responses from the surrounding property owners, there have been a number of calls and some people came to the counter, the most recent call was today.

Reeves stated the Planning Commission will need to consider the *Golden Criteria* as the Planning Commission makes their decision as well as all comments received in tonight's meeting. The *Golden Criteria* includes the character of the neighborhood. This is on the north side of K68 with most of the

lot sizes ranging from 4 to 100 acres or more. The property abuts K68 Highway along its south property line.

Reeves stated the present zoning is Agricultural (AG). The CUP for the event venue will act as a commercial type of overlay to the Agricultural zoning. Probable impacts produced from the proposed use include increased traffic to the area, noise, increased night light, late hours of operation, possible use of alcohol and possible impacts associated with alcohol use, parking, dust, etc. With the number of events proposed 7 days per week with an estimated attendance of 250 people at each event, neighboring properties will likely be detrimentally impacted even with conditions being imposed to reduce the impacts.

Reeves stated staff does have concerns that the increase in traffic traveling to and from the site at one time on K68 Highway could possibly create traffic and/or safety issues along K68. Staff does believe that the attendance levels trigger the need for a traffic study for possible turn lanes or other things that may be needed to avoid accidents. Staff is not qualified to determine whether nearby properties would be devalued if this proposal is approved. The hardship imposed on the applicant if the application is denied would include the inability to utilize the property for the proposed event venue, but the applicant would still be able to utilize the property for uses allowed in this district, including a single-family residence and agricultural uses.

Reeves stated event venues are not allowed by right in the Agricultural zoning district and are not specifically listed under conditional uses in this district, however, a conditional use permit provision is made in Section 6-2.02.33 for *“Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.”* Staff typically evaluates these types of proposals on the number and frequency of events, proposed attendance, road access and proximity to pavement, and the surrounding area to weigh whether such a proposal would be better suited in a commercial zone or in the city limits. It is sometimes difficult to juggle visitors desire to experience the rural community and the applicant’s desire to create a venue, while preserving the surrounding property owner’s right to the quiet enjoyment of their property and the desire to maintain the community’s rural character. The current trend for weddings seems to be directed toward the rural communities so there is a need to address these types of venues. If negative impacts can be sufficiently mitigated with appropriate conditions, staff believes a request could then be consistent with the intent and purpose of the regulations. Although this property abuts K68 Highway which is paved, access to this site will be required to be taken from Cedar Niles Rd which is a gravel road. Considering the number of attendees anticipated, the frequency of events proposed, and the location, staff does not believe this use is consistent with the intent and purposes of the Zoning Regulations.

Reeves stated wedding venues/reception sites are extremely popular today and in high demand in rural areas. However, the location needs to be appropriately sited and negative impacts adequately mitigated.

Reeves stated the Comprehensive Plan designates this site as Rural Agriculture. The Comprehensive Plan does not specifically address wedding/event venues, but does reference churches, schools, and neighborhood commercial development. The Comprehensive Plan directs commercial types of uses to the Village Expansion areas and Areas of Regional Significance, but they can be considered in other areas if negative impacts can be adequately mitigated.

- *Neighborhood commercial retail and service facilities may be considered in rural areas outside of the Village Expansion Areas if adequate, paved road networks access the site and the commercial use is compatible with the surrounding neighborhood.*
- *Neighborhood commercial retail and service facilities should be aesthetically pleasing and in harmony with their surroundings.*

Reeves stated the frequency and attendance numbers for this proposal are quite high for a rural / agricultural area. As such, staff does not believe adequate conditions can be implemented that will reduce the negative impacts associated with event venues such as noise, traffic, hours of operation, lighting, and alcohol use. This intense of a use is better suited in a commercial zoning district or inside city limits.

Reeves stated if a traffic impact study is warranted the Staff does not recommend this due to the expense involved unless the Planning Commission believes the use is appropriate for this area and negative impacts can be adequately mitigated.

Reeves stated Staff recommends for the application to be denied based on the proposal is too intense for this area for the rural venue and it would be better suited inside a city limits or a commercial zoning district that has adequate infrastructure available.

Reeves stated she distributed a copy of a resolution that was previously approved for an event center so if the Planning Commission approves The Barrel, they have some guidance with potential findings and conditions to base their approval on.

Kitchen asked how long the applicant has owned the property. Reeves stated believes it was a recent purchase, but the applicant would be able to answer that.

Menefee reminded everyone that any and all questions and comments are to be directed to the Planning Commission Board only and not to the applicant and be respectful and courteous.

Menefee invited the applicant to the podium.

Amy Pearson, Applicant, stated if she were in the reverse position and received a notice that a venue was going in next to her property she would be concerned with noise and how it would affect her home. Pearson stated she currently lives in Overland Park and also owns property on 359th that she is in the process of building a home on. She is building the home in the rural Miami County area because she wants out of the city. Pearson stated she has put on live events for 25 to 30 years professionally. Pearson stated this is her livelihood. Pearson stated the report indicates keeping noise (including music) not to exceed 70 dba at the property line, but in Pearson's opinion the noise from her events doesn't get any louder than traffic. Pearson stated she puts events together in the cities at parks where neighbors don't want to hear the music and she is able to keep the music down. Pearson stated she has done events for years and wants this to be good for everyone. Pearson stated the report is misleading to say she will have events 7 days a week with 250 people per event, this is not Pearson's goal. Person stated she was asked when she intends to be open, and her reply was she wants to be available 7 days a week and could have up to 250 attendees. Pearson stated if it is a birthday party held on a Tuesday there won't be 250 attendees. Pearson stated she doesn't believe there will be 250 attendees every night at the property. If it is a wedding on a Saturday, there could be 250 attendees. Pearson has done multiple corporate events during the weeknights there was not 250 attendees. Pearson believed this to be a good location because they could come off K68 and the traffic would not affect anyone but does now understand KDOT's concerns with an entrance onto K68. Pearson stated she spoke with the Undersheriff today and asked if he felt comfortable or if he had any concerns

about traffic, and the reply was absolutely not and if there is a big event like Louisburg Cider Mill the Sheriff's office would work with her just like they do anyone else. Pearson stated she would like to assure everyone that she will do everything possible to prevent any of her events from affecting any one of the surrounding neighbors. Pearson stated she would like to have a rural venue that is inviting to people and would like to hold fall festivals and winter festivals that are agricultural as well.

Philgreen asked what her experience is with wedding venues compared to just an event. Pearson stated she does weddings on a regular basis. Philgreen asked where the weddings were held. Pearson stated she does not currently own an event venue, so the weddings were held at a location that the customer and she agreed to.

Pearson stated this is not going to be a venue that is opened and not taken care of, she will be taking care of the venue. Pearson stated she currently has a full staff that works for her full-time, there will always be staff on site at all events. Philgreen asked if her staff is outside the area. Pearson stated her current staff is from all over and currently has two (2) staff members in Miami County. Pearson stated she will not have a full functioning kitchen, just a warming kitchen for caterers, and will also bring in food trucks. Pearson stated once her doors are opened for business there will be employment opportunities.

Brown asked what her techniques are for keeping the noise level down and why they work. Pearson stated often times when sound is setup for music the speakers are large, all set up near the stage, and blasting the music as loud as possible. Pearson takes multiple small speakers and spreads them around so the noise level can be kept down and yet everyone can still hear the music. Brown asked what her techniques are for outdoor events compared to indoor events. Pearson stated she wasn't aware until today that she wasn't allowed to have music outdoors, but originally, she anticipated having weddings outside under some sort of arch with music playing. Pearson stated she invites people to look at what she has done in the past. Pearson stated she does not intend to be something and does not want this to be something that would bother the neighborhood. Pearson stated she wants everyone to enjoy the presence of the venue here, including the neighbors.

Philgreen asked if the brand The Barrel means anything. Pearson stated she worked on names for a while and just liked the way The Barrel sounded. The building will be a QSI building so the outside will look like a barn and the inside will be wood with stripping like the outside of a whisky barrel on the walls.

The Planning Commission meeting had a total of 41 guest in attendance, 18 of the guest spoke against The Barrel (22009-CUP)

Menefee stated before opening the hearing to the public he would like to remind everyone to state their full name and address for the record; direct all concerns and questions to the Planning Commission; there is a 3-minute time limit for each person wanting to speak, and strongly encouraged anyone planning to speak to consider whether someone already said what he/she planned on saying to simply state that. Menefee opened the hearing to the public at 7:39 p.m.

Christie Doherty, 27780 Cedar Niles Rd, stated her house will be directly across from their parking lot. The land the Applicant bought is good farmland that once had cattle on it, hay was once there as well as other crops. Ms. Doherty stated the applicant wants it for a welcoming to our community and the Hillsdale Lake, Hillsdale Lake is not near us. The noise carries if you live in the country the noise carries when it is quiet. This is agricultural land with farming actively going on daily with heavy equipment. The farmers are trying to make a living and now they will have additional traffic on the

roads causing a safety issues for the farmers when on the roads with their farm equipment. Ms. Doherty stated the location of the parking lot water runoff, it won't go in a ditch across from Ms. Doherty's house, she states it will run down Cedar Niles Road into a gully and down to K68 Highway where it will pool and stay there in a pool at the intersection. The County has been there multiple times attempting to fix this issue. Ms. Doherty stated The Barrel cannot be compared to Louisburg Cider Mill; Louisburg Cider Mill did not build around houses; The Barrel is building around multiple houses with housing on every corner. In the General Provisions of the Zoning Regulations and Districts established in accordance with the Comprehensive Plan present and future states the safety, convenience, and general welfare of the citizens of Miami County to provide appropriate and best use of land. Ms. Doherty stated an event center is an intrusion of their way of life.

Kellie Doherty, 27780 Cedar Niles Rd, stated the location for an event center here doesn't make sense to her. Ms. Doherty read the definition of Agriculture and stated planting a tree and putting in a lagoon is not agriculture.

William Bryson, 28066 Cedar Niles Rd, stated he was saddened when he first heard of this event venue. He pulls up to the intersection of K68 and Cedar Niles Rd 2 to 3 times a day, and when he pulled up tonight, he came to a stop and just admired the beautiful lot. Mr. Bryson stated he would welcome a house but is against a commercial building of any kind it will take away from the beauty. The traffic issues of driving up and down that road and many times he has come close to being rearended. A commercial venue will have a negative effect on the surrounding properties, Mr. Bryson stated he would not have built his house here if he had known an event center would be nearby. Aside from all this, it is peaceful sitting on the front porch listening to the bugs.

Mary Lynn Hickman, 27731 Osawatombie Rd, stated she is familiar with the property, it was her parents' property, and she was born and raised on that property. The applicant purchased the property in May 2022, and it has always been agricultural land. She stated the water district refused water to one of the people that attempted to purchase the property from her parents because they couldn't get a water meter. If the water district can't serve a house, how will it serve an event center? Ms. Hickman stated if the CUP is approved the road should have to be black top to the entrance of the event center.

Troy Pinneo, 27983 Osawatombie Rd, stated some of the concerns of his family is property values and additional insurance that would need to be carried by the surrounding property owners for incidents related to the event center. Mr. Pinneo stated that the water shed will run through his property and would like to know if the applicant is planning on fixing that. Mr. Pinneo stated he is concerned about the 4-foot privacy fence being too short. He is also concerned about the cattle on the property abutting the applicant's property. Mr. Pinneo is also concerned if someone crosses over the fence to his property and get hurt, what will happen.

Paul Butel, 28235 Cedar Niles Rd, stated his primary concern is safety. There have been a number of accidents near that intersection through the years. One accident he recalls was a fatality and another he recalls was a semi-truck ended up in the front yard of Doherty's. Mr. Butel stated he hosted a party at his place in 2019 and one of his guests hadn't shown up. Mr. Butel later found out his friend was turning south on Cedar Niles Rd, and someone couldn't wait for him to turn and took the front end off of his friend's car.

Dr. Linda Kalmar, 28071 Cedar Niles Rd, stated she has lived out there since 1988. Dr. Kalmar stated she spoke with someone in the Sheriff's Department and asked how many accidents there have been since the 1st of January 2022 on this stretch of K68. Dr. Kalmar stated she was informed there have been 11 accidents. Another safety issue that concerns Dr. Kalmar are the paper lanterns that are lit on

fire and lifted into the air to fly around at will and land at will. Dr. Kalmar stated people tend to shoot off fireworks at events and weddings as well. There is a safety issue with the houses and farmlands with the lanterns and fireworks. Dr. Kalmar stated she is opposed to the event center.

Kathy McElhiney, 29209 Lone Star Rd, stated she moved here a year ago, and she chose to live here because of the people, because of the quiet, because of the beautiful land, and animals. Ms. McElhiney stated she doesn't want a venue a mile and half from her home. She has invested a lot of time and money in her home. Ms. McElhiney stated that the staff recommends against it, it is a non-conforming non-compliant use.

Tom Tepesch, 25965 K68 Hwy, stated the applicant's property is on a ridge sloping to the west and it is very difficult coming onto K68 Highway. Mr. Tepesch stated the majority of the people living in the area have been there for generations, but there are many that are new to the area and all of them have invested in their properties. Mr. Tepesch stated his primary concern is the sewer. It is rural area Miami County with no sewer systems, there are other areas in Miami County with sewer systems, adequate water, and paved roads that would be more suitable for an event center. Mr. Tepesch stated he believes there would have to be a lagoon on the property for the event center, if there is any failure in the system it will run to his property then he will have to deal with it. Mr. Tepesch stated the size of the building will need to be around 3,700 square feet to accommodate the basics, then need to add room for a dance floor, he believes the surrounding citizens should be allowed to see what the building will look like.

Bob Doherty, 29741 Lookout Rd, stated he is the executor and trustee of the Pearl E. Doherty Trust. Mr. Doherty stated they have land on the west side and the north side of the proposed event center. They have a big concern about what will happen to the value of the land if the event center is approved. The site plan shows two (2) large lagoons near some prime property for a house, and no one will want to build a house there because it will be too close to a lagoon. Mr. Doherty is concerned about noise from outdoor concerts, the noise will travel in the open countryside. He also stated that a 4-foot picket fence will not protect light from going into the houses near the applicant, the fence is too short to prevent the headlights from hitting the houses. Mr. Doherty stated an event center is not a good fit for this area.

John Cook, 27490 Cedar Niles, stated most of the people present tonight are in his neighborhood and it is a good neighborhood. Mr. Cook stated he is 30-feet south of the 1,000-feet. There's a motor cross 1 ½ miles away, they run Friday, Saturday, and Sunday nights, we can hear them. We do not want an event center this close to us.

Barbara Foster, 310 E Kaskaskia St, stated her dad is John Cook and when this all came about her dad asked her to see what she could find out. She was told that only the people within 1,000-feet counted. Ms. Foster asked that the Planning Commission consider what all the people here tonight are saying, not just the people within 1,000-feet of the applicant.

David Anderson, 28465 Cedar Niles Rd, stated he bought land on Cedar Niles about five (5) years ago, bought it because it is quiet. He plans to build a house on the land, and he has safety concerns if the applicant is approved.

Tricia Peyton, 28580 Cedar Niles Rd, stated her concern is the applicant stated she is building a house on her property located on 359th St, why isn't she building the event center there. Ms. Peyton stated she has grandkids that run up and down Cedar Niles Rd; if the applicant is approved there will be alcohol present. If they get drunk and behind the steering wheel of the car who will get hurt?

Sharon Scherman, 27235 Cedar Niles Rd, stated from an agricultural point of view, the county is running out of ag land, why should the farmers give up more ag land to a venue that will create safety issues for the farmers and take away from the surrounding property owner's value.

Bruce Cordle, 26619 K68 Hwy, stated most of what he would say has already been said; he stated he does agree with everything being said against having the venue in their area.

Norman Beal, 27508 Lone Star Rd, stated himself and most people present tonight live in the area the applicant is proposing an event venue in. They live in this area because of the rural nature. Mr. Beal believes if something other than agricultural is brought into the area then what that does to the surrounding property values and the livelihood of those currently living in the area. This property was acquired in April by someone that intended all along to start up an event venue. This type of development is not consistent with the property owners that have been there for years.

Chris Stallbaumer, 28065 Cedar Niles, stated he has been in the building industry all his life, this venue, if approved, will change things for the worse. There is also the safety issue with accidents on K68, there are accidents in this area all the time, and that's not a 111 cars pulling out at midnight, this will disrupt the entire area.

John Cook returned to the podium and stated the other route pulling out of the applicant's property is to go north and go around, that road is not good, there is a narrow bridge and it's a pretty good drop down through there. There have been a couple of accidents on this road because the people didn't know the roads and there will be more accidents when the traffic increases because of the venue, if approved. And if they go this route, it will add traffic to Mr. Cook's area as well.

Menefee closed the public hearing for 22009-CUP (The Barrel) at 8:21 p.m.

Menefee invited the applicant to the podium to respond to the public comments.

Amy Pearson stated her intention of the fence around the parking lot is to block headlights from the houses and she is willing to put up a 6-foot fence instead. Ms. Pearson stated she didn't realize the sign could only be 5-foot high, she will adjust the height of the sign from 6-foot to 5-foot. Ms. Pearson stated if the application is approved since she is unable to have the access on K68 she will have it on Cedar Niles Rd and will plan to have the entrance at an angle so that the headlights leaving the property do not go straight into someone's home. Ms. Pearson stated she does put together concerts and it is listed on her website, but that wouldn't be at this venue that is at other locations. Ms. Pearson stated she is very good at what she does and hopes that is taken into consideration.

Menefee opened the discussion for the Planning Commission and Staff at 8:24 p.m.

Menefee stated it is his belief this is a neat concept and idea; however, he believes this is a venue that would be better suited on 160 acres instead of 20 acres. Menefee shared some of the same concerns with traffic coming off of K68 Hwy.

Kitchen stated there have been several event venue applications come before the board in the last 10 to 15 years but none this large.

Manchester moved to deny The Barrel, application 22009-CUP per staff recommended findings listed in the staff report, and non-compliance with the Comprehensive Plan. Kitchen seconded, the vote was unanimous (6-0), via show of hands.

Reeves stated The Barrel, 22009-CUP, will go before the Board of County Commission on November 30, 2022, at the 1:00 p.m. meeting.

GENERAL DISCUSSION

Discussion on Solar Regulations:

Reeves opened with Solar Farms. Reeves stated this has been a project that Katie Jardieu had been working on and she is on maternity leave. Reeves stated Jardieu was looking into Pottawatomie County, KS as far as Solar Farms are concerned. Pottawatomie County, KS is in the process of adopting regulations for Solar Farms. Reeves passed out the Pottawatomie County, KS Solar Project Guidebook to the Planning Commission, she stated it doesn't provide as much information as she was hoping but the website link provided does give a lot more information on Solar Farms (<https://www.pottcounty.org/533/Renewable-Energy>). Reeves stated there are some public comments listed within the link that she found interesting.

Menefee asked if there is any knowledge of the Board of County Commissioners' desire to extend the moratorium on Solar Farms. Reeves stated it will need to happen but believes the Commissioners will need to do it in small increments. Reeves stated she also plans to ask the Board of County Commissioners if it would be possible to hire a consultant that specializes in Solar Farms. Reeves doesn't feel she has the qualifications to talk about Solar Farms and knows the Planning Commission has a lot of questions.

Elliott stated he has been trying to figure out the motivation for someone to bring a Solar Farm to Miami County, KS. Elliott stated in an unrelated subject, there is a battery plant being built in Western Johnson County area and Evergy actually spoke at the meeting he attended. Evergy stated the battery plant is going to need as much electricity as the City of St. Joseph, MO. Elliott stated there is a high demand for electricity, especially with things like a battery plant using a large amount of electricity. Elliott stated if Miami County isn't willing to look at a Solar Farm to produce electricity is there something else Miami County is willing to do? Elliott stated maybe it should be looked at like an energy policy and not so much as a Solar Farm policy. Elliott stated Miami County isn't currently producing energy within Miami County that is being used by Miami County. Kitchen stated there is oil being produced. Elliott agreed, but stated as it is presented to the public maybe the Planning Commission should highlight the lesser of two (2) evils. Elliott stated another option is to let another county produce the energy and Miami County purchases the energy from the other county(s).

Kitchen stated he looks at it as agricultural and food production. Kitchen stated in his lifetime of farming, as a kid they never worried about sulfur deficiency in our crops, and yet for at least the past ten (10) years there has been a big sulfur deficiency. He used to get the sulfur from the burnt coal from power plants and coal was done away with in the power plants and now there is a deficiency in sulfur. Kitchen asked where is sulfur being mined. Menefee stated he believes from Russia and/or China but could be wrong. Kitchen stated unable to use nitrogen without sulfur making us dependent on someone else to supply the sulfur needed. Kitchen stated the batteries and sulfur have something to do with each other, the batteries and farmland will be fighting each other for sulfur; it's going to start snowballing, where does that end up in the long term. Kitchen also asked why is the government being allowed to force everyone in the United States to go electric. Kitchen believes the people will be at the energy companies' mercy if we go all electric.

Philgreen stated there is a much bigger question here than just Solar Farms. Philgreen stated he is concerned when an issue like this turns political and this shouldn't be a political issue, he believes when it becomes a political issue it keeps the Planning Commission from addressing the problem.

Philgreen believes Solar Farms are going to happen and Miami County needs to get ahead of it.

Menefee stated the Planning Commission needs to adopt a regulation, if the Planning Commission doesn't then someone else will adopt a Solar Farm Regulation on behalf of Miami County.

Kitchen stated he still struggles with why a company would pay \$2,500 per acre with a 20-year lease instead of just purchasing the land out right.

Kitchen suggested if the Solar Farm needs a building, to make it a requirement that the building be built strong enough to support the weight of the solar panels.

Menefee stated the type of ground, such as brown fields, could be strongly suggested to be used for Solar Farms.

Reeves stated using brown sites can be in the regulations as an incentivize.

Elliott stated Miami County is not the only County dealing with Solar Farm Regulations, and likes Reeves suggestion for a consultant.

Manchester stated on October 24, 2022, Osage County, KS County Commission accepted a recommendation not to allow Wind Farms or Solar Farms into the county.

Philgreen stated he would like legal counsel to advise what will happen when a utility company wants to go into Douglas County and put in a Solar Wind Farm.

Shelley Woodard, County Counsel, stated when Douglas County approved Solar Farms, Osage County did not. Woodard stated there are certain utilities that are much more regulated by the State of Kansas and those utilities Miami County doesn't have much of an ability to do anything based on the State level. Woodard stated Elliott brought up a good point when he asked if we should be looking at other energy avenues. Woodard stated Miami County is limited in what we can do in regard to certain electricity generation facilities because they are regulated through the KCC (Kansas Corporation Commission), certain solar and wind farms aren't as heavily regulated through the KCC. The statutes give us a little more ability to regulate some solar farms more closely at a local level. It depends on who owns and operates a wind farm, solar farm, or renewable energy generator and how they sell the electricity. Woodard gave the example using Evergy stating if Evergy puts in a solar or wind farm that would be a public utility it would be mostly regulated by the KCC, however, if it is a third party putting in the solar or wind farm and they sell wholesale to Evergy the third party is not as regulated by the KCC.

Philgreen stated he is hearing that if Miami County puts in the regulations no solar or wind farms allowed, then Evergy can purchase land and put in a solar or wind farm and Miami County can't stop them because they are regulated by KCC. Woodard stated she will need to visit with KCC to confirm the logistics of that. Woodard suggested seeing if someone from KCC would be able to come to a meeting to explain who they regulate and why/how they regulate them.

Woodard stated she believes getting a KCC representative and a consultant lined up to visit with the Planning Commission are two (2) items that have been identified by the Planning Commission of things they need to make an educated decision.

Philgreen asked if Miami County adopts the perfect regulation that makes everyone happy and Evergy decides they still want to come into Miami County; would Evergy have to abide by the regulation Miami County adopted or could they buy their own land within Miami County and do their own thing

anyway. Kitchen stated Evergy would be able to do their own thing including eminent domain. Woodard stated they probably could and there are still some things they would have to do per Miami County Regulations. Philgreen asked if Evergy would have to abide by the setbacks and screenings. Woodard stated that's a bit dicey and that is where she believes the Planning Commission would benefit from hearing from someone at KCC.

Woodard stated concerning Kitchen's question of why Evergy would use a third-party, the public energy companies receive a tax benefit. Public utilities that own land are taxed at a 33.5% rate, the highest tax rate there is in Kansas. The public utilities also pay taxes on all the land instead of part of the land. Because public utilities pay the highest tax rate they prefer using a third-party to avoid paying such a high tax rate.

Kitchen asked if the land is split from the solar farm as far as taxes are concerned. Woodard stated the contract can state they want the solar farm to be separated out from the land for the taxes.

Elliott stated he has skimmed through the Pottawatomie Solar Project Guidebook passed out earlier. It addresses a lot of the issues the Planning Commission has discussed and had questions on. Elliott questioned what the process would be to go from a Guidebook to Regulation. Woodard stated Johnson County, Douglas County, Franklin County, and Pottawatomie County already have regulations that exist, and Miami County is benefiting from the work the other counties have already done. Woodard stated it will be easier for the Planning Commission to look at the other counties regulations and say what they like and don't like, then Woodard will be able to create a template for Miami County based on the guidelines provided by the Planning Commission. Elliott stated it would be easier for the Planning Commission Board to develop a Guidebook and then allow Staff to pull the information from the surrounding counties' regulations to create the regulations for Miami County.

Elliott moved to recommend the Board of County Commissioners approve hiring a consultant that specializes in Solar Farms and to extend the moratorium. Philgreen seconded, the vote was unanimous (6-0), via show of hands.

Philgreen stated he has heard of a possible lawsuit in Johnson County against the large solar farm going in, it is based on several of the Johnson County Commissioners did not disclose a conflict of interest. Woodard stated if a Planning Commissioner or Planning Commissioner's property is directly impacted by something on the agenda then it is the Planning Commissioner's responsibility to recuse him/herself from the discussion, deliberations, and the voting. Philgreen stated he thought it was about open communication, and questioned if it is really necessary to be recused. Woodard stated Miami County has a Code of Ethics regulation that states a Commissioner needs to recuse him/herself, however, if the Commissioner wishes to be a part of the discussion he/she will need to participate as a citizen and not a Commissioner.

Staff Announcements:

Reeves stated:

- Katie Jardieu is on leave for an adoption.
- Miami County still has no applicants for the Planning Director position.
- Reeves stated if needed, she will stay with Miami County while the county is still in the process of hiring a director.

Elliott requested that Planning & Zoning makes sure to get comments from Road & Bridge on the necessary applications, even if the comment is that there is no concern by Road & Bridge so that the Planning Commissioners know. Elliott stated nine out of ten times the Road & Bridge comments are

needed the most.

Elliott passed out a document on ag sales based on item number 9D. The top of the page is the current regulation, then there is two proposed options with examples of the square footage. Proposed option 2 allows for modifications. Philgreen asked if it will be an item on the regular agenda for December. Reeves stated it is too late for it to be on the agenda as a regular item due to publication, however, it can be on the next agenda as a discussion item.

Menefee asked what is currently on the agenda for next month. Reeves stated currently two plats, one is questionable.

Possible Future Amendments to Zoning and Subdivision Regulations

- A. Common Access Easement requirements
- B. Sign Regulations
- C. Telecommunications Regulations
- D. Height limits for radio, television, internet antennas and satellite dishes designed for individual residences.

There was no discussion regarding these "Possible Future Amendments" to the regulations.

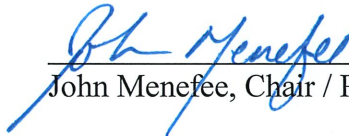
ANNOUNCEMENTS BY STAFF / COMMISSIONERS

Elliott moved to adjourn the meeting, Philgreen seconded. The meeting adjourned at 9:36 p.m. with a vote unanimous vote (6-0), via show of hands.

Approved this 6th day of December, 2022.



Casey d'Augereau, Secretary



John Menefee, Chair / Phil Elliott, Vice-Chair

Minutes written by Casey d'Augereau

