

**MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
July 2, 2024**

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

ATTENDANCE

CHAIR:	Kelli Broers
VICE-CHAIR:	Absent
PLANNING COMMISSION	John Menefee, Randy Kitchen, Bret Manchester, Phil Elliott, Mark Raney
ABSENT MEMBERS:	Joshua Brown, Joe Flake, Topher Philgreen
EX-OFFICIO MEMBERS:	None present
PLANNING DIRECTOR:	Kenneth Cook
ASST. PLANNING DIRECTOR:	Jennifer Koehn
PLANNER:	Bobby Wardecker
PC SECRETARY:	Not present
COUNTY COUNSELOR:	Not present
ECONOMIC DEVELOPMENT	Not present
COUNTY COMMISSION:	None Present
COUNTY CLERK:	None Present
PRESS:	None Present

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CALL TO ORDER

Chairman Kelli Broers 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

Elliott moved to adopt the agenda as presented. Menefee seconded, and the motion passed unanimously (6-0), via show of hands.

CONSENT AGENDA

- Minutes:
 - Approval of the June 4, 2024, Planning Commission Minutes.
- 24004-SUB: Crescent Hills Estates 3rd Plat

Menefee moved to approve the consent agenda with spelling corrections to June 4, 2024 Minutes. Raney seconded, and the motion passed unanimously (6-0), via show of hands.

New Business:

Public Hearing 24002-VAC: Petition to Vacate Easements – Kracht

Broers opened Public Hearing 24002-VAC: Petition to Vacate Easements – Kracht at 7:02 pm

Kennith Cook, Director of Planning & Zoning, presented the Staff Report regarding a petition to vacate the Note on the Subdivision Plat for Forest Creek 1st Plat stating: “The existing driveway entrance for Lot 2 shall be relocated to 226th Ct once the road is constructed”.

Cook explained the subdivision requirements call for an internal road to be constructed when land is divided into more than four lots. In 2016 a Subdivision Plat for Forest Creek ,1 Plat was recorded creating a two-lot subdivision including the two existing dwellings both taking access off Gardner Road. The recorded plat included the note requiring the relocation of the driveway for Lot 2 onto 226th Court once the road was constructed. In 2024 A building permit application was submitted for an accessory structure proposed to be constructed to the rear (east) of the dwelling. In reviewing the building permit application staff became aware the driveway had not been moved in compliance with the requirement of the plat.

Staff approved the building permit for the proposed accessory structure with the condition the issue of the driveway was addressed by either relocating the driveway or making application to request to vacate the

note on the plat is approved prior to final occupancy of the structure being granted.

Request for comment was sent to all utilities, departments, and agencies and all either had no comment or no conflict regarding the request to vacate the note.

Cook informed the Commission that new correspondence was received just prior to the public hearing from Johnson County Water District #7, which may need to be taken into consideration as part of the Planning Commission's decision. This communication noted concerns regarding possible impacts on Water #7 infrastructure that would require relocation of a fire hydrant and protection of water valves if the driveway was moved to comply with the Subdivision Plat for Forest Creek 1st Plat.

Cook stated that his original recommendation in the Staff Report was based off what the subdivision regulations state and the assurance of the developer that the entrance was going to be relocated and therefore his recommendation had been denial. Since the recent discussions Cook has had with the Water District, the opinion is now that it would cause more expense and harm at this point to enforce the note on the plat and move the driveway than to leave it.

Commissioners questioned why this was allowed to remain in place for so long and that it should have been enforced much sooner.

Cook agreed with the Commissioners that moving the driveway should have been enforced when the internal road into the subdivision was completed as was stated on the note on the plat, but for whatever reason it was not, and the owners continued to use the temporary driveway.

Commissioners inquired whose financial responsibility it would be to relocate and protect the water valves if the entrance were to be moved.

Cook stated that to move the hydrant and pour concrete to protect the valve boxes. Cook's original recommendation was denial based on the comments the Commission had at the time. Assuring the driveway wasn't conflicting with these elements should have been caught as part of the design of the subdivision plat. The cost moving the hydrants and protecting the valves should have been that of the developer who agreed to these conditions, not the burden of the current owner.

Cook also stated that he would rather not have another driveway on to an arterial road, but this driveway has been there for some time and has not negatively impacted the area.

Cook explained that the owners are concerned that moving the driveway would cause more conflicts with traffic than it does now.

Kitchen asked if the hydrant was there prior to the subdivision?

Cook said he was unsure of when the hydrant was placed at that location but believes that the water line had been there for some time.

Kitchen inquired whether the new owner was aware of the note on the plat at the time of purchase.

Cook stated the note would only be visible on the plat.

Broers said if we are going to weigh the equities here it is hard to do without knowing what the cost is going to be and how extensive the changes will need to be.

Cook said that it is not a large area these valves are located in. The cost of insulating the valves is less than that of moving the hydrant.

Broers asked if the hydrant really needs to be moved or if that driveway location is just a preference.

Cook stated that the hydrant is in the best location according to the information he received.

Elliott asked for clarification on the case number for the variance, pointing out discrepancies in the

documents.

Cook confirmed the number of the case is 24002-VAC.

Elliott asked for clarification on when a public hearing would be required in a vacate.

Cook clarified that we are required by statute to publish notifications of vacations.

Broers pointed to KSA58-2613 for reference.

Broers opened the public hearing for 24002-VAC: Petition to Vacate Easements at 7:26 PM

None of the public came forward. Public hearing closed at 7:26 PM

Broers called for discussion among the Commissioners.

Kitchen stated that he doesn't understand why you would need to build the driveway on top of the waterline.

Cook replied he had multiple discussions with Eric Sandburg Director of Road and Bridge who expresses this is a reasonable alternative and doesn't have any issues with this request.

Elliott pointed out that along the mile where the driveway in question exists, there are at least 7 other driveways that are doing something similar and allowing this one to remain is not creating a new situation or hazard. Elliott supports the petition to vacate the note on the plat stating that this has been through many approvals and has not been caught until now.

Raney does not see a reasonable alternative for relocation of the driveway.

Kitchen stated that the current owner should have been aware they would need to move the driveway when they purchased the property.

Menefee agrees with Elliott's assessment of the situation. The driveway has been in existence for a long time and does not impact the safety of the neighborhood. He does not see the point in having the current owners spend the money to relocate it this late in the game.

Elliott moved to approve the petition to vacate the note on the plat. Menefee seconded the motion. The motion passed 6-0 via show of hands.

Public Hearing 24001-TA: Floodplain Regulation Updates

Broers opened 24001-TA: Floodplain Regulation Updates at 7:42 p.m.

Cook presented an overview of the updates being proposed to the floodplain regulations and provided information related to questions asked by the Planning Commission at the June meeting. The questions mostly involved how Miami County might be impacted if we did not adopt floodplain regulations that complied with the NFIP; if the model regulations included requirements that exceeded the minimum requirements of the NFIP; if the regulations can provide more details related to types of projects that would not require floodplain development permits (such as maintaining a driveway or agricultural activities); and details related to the county of property and structures impacted by floodplain in Miami County.

Menefee asked for clarification on whether the county would lose disaster assistance for flooding if the County were to not participate in the National Flood Insurance Program.

Cook confirmed that is correct. Federal assistance in the case of a flood would be limited if not available

at all were we not to participate.

Elliott and Menefee acknowledged the necessity of flood insurance and though they understand the concern of the commission for Federal involvement, they recognized that in the end for the county to have flood insurance it is worth it.

Raney inquired about whether we had to adopt all of the regulations proposed.

Cook replied that in his conversations with the state there are different levels of communities. Not all communities have to adopt all the regulations based on what level of flooding is expected in the community. The regulations are designed to be the minimum requirements for each community.

Commissioners asked how many flood insurance policies we have in the county.

Cook stated there are very few in comparison to how many address points that are located in the floodplain in the county.

Elliott stated there have been many cases within the country where the Federal Government has used policies and regulations to overreach far beyond what was necessary which makes him nervous.

Raney stated the professional staff we have provide guidance on these issues but we as a governing body can manage that guidance where we see appropriate. These regulations have been in place for a long time without a negative impact but there is an opportunity here to make them better and tweak the language to better protect the community.

Cook replied that his state contacts have informed him that there is flexibility in our administrative process in which permits we can allow and that we can be less restrictive in some ways.

Broers inquired about how the floodplain violations would be enforced and who is responsible for prosecuting violations. According to 21-8, it is the responsibility of county staff to enforce violations, not the Federal Government.

Cook stated most often the violations are initiated by the state who work with the county to resolve non-compliance in the floodplain.

Broers opened the public hearing at 8:15 for 24001-TA: Floodplain Regulation Updates.

One citizen, Courtney Crawford, expressed concerns regarding the floodplain regulations. These concerns included the following:

- What jurisdiction FEMA has in Miami County and how can FEMA put regulations on Miami County.
- She asked if the push for the update in the regulations were related to Osawatomie getting ready to approve their Comprehensive Plan that deals with subdivisions going in and land they are trying to develop.
- She noted the State of Kansas has launched a water meeting across the state to talk about the water and the EPA coming in.
- She expressed her concern that this is part of the federal government reaching into our communities when they should not be allowed to.
- She also expressed that we should ask for proof that insurance is going to be denied if we do not accept this policy and that there should be proof of this before we sign anything.

Broers closed the public hearing at 8:17 and asked for discussion by the Commissioners or any additional questions for Staff.

Kitchen inquired about minimum requirements for building in the floodplain.

Cook responded by stating that the regulations are designed to meet minimum requirements. The State of Kansas has adopted regulations that are more stringent than those of FEMA. Cook explained that each community gets to decide how they implement those standards.

Menefee stated that if we don't have floodplain regulations in place we don't have any mechanism to protect our own property from others building in the floodplain that may have a negative impact on surrounding properties.

The Planning Commission had discussions related to the proposed regulations and concerns that different members have with regards to the regulations.

One concern expressed was with relation to the limited timeframe in which Miami County needs to adopt updates to the Floodplain Regulations in order to remain a participating community in the National Flood Insurance Program as the regulations must be adopted by September 24, 2024, which does not provide much time for additional research or discussion.

The Planning Commission felt it was important for updated floodplain regulations to be adopted, so that the county's participation in the NFIP and property owners' ability to receive flood insurance are not impacted. While a number of Planning Commissioners agreed they would like for staff to go back through the floodplain regulations in more detail to determine if there were certain requirements that were in excess of the minimum requirements which could be considered for removal from the regulations in the future, this would need to be a decision by the Board of County Commissioners regarding if they would want staff to continue working on this project. It was also expressed that adding this more intensive review on top of the existing projects staff is working on could be difficult and if this review would need to be performed by an outside group.

Raney made a motion, seconded by Kitchen, to recommend approval of staff's proposed changes to incorporate the new floodplain requirements with the wording and proposed changes and the following conditions: (1) reword paragraph 12-2.04 from the regulations being liberally construed in favor of the county and instead be in favor of the land owner; (2) staff to return to the Planning Commission in 6 months with a compliance matrix which would allow the Planning Commission to see our requirements against the minimum FEMA requirements in order to maintain compliance with the NFIP; (3) staff to perform research within the next 6 months regarding counties located in the United States that have decided to adopt floodplain regulations that are not related to FEMA or the National Flood Insurance Program. Concern was expressed by members of the Planning Commission that staff would not have the time to provide this information within the next six months. Phil Elliott specified if he was given the opportunity, he would make a motion to recommend approving the regulations with a request for staff to develop the administrative procedures as discussed in the staff report. After discussions related to the motion, the motion failed by a vote of 3 in favor (Raney, Kitchen & Manchester) and 3 opposed (Broers, Menefee, Elliott).

Elliott made a motion, seconded by Menefee, to recommend approval of the regulations with the conditions (1) modifications to 12-2.04 removing the word "liberally" and "and in favor of the governing body"; and

(2) staff prepare administrative procedures to be considered in the future by the Planning Commission. After discussions related to the motion, the motion failed by a vote of 3 in favor (Broers, Menefee, Elliott) and 3 opposed (Raney, Kitchen & Manchester).

After additional discussion, Elliot made a motion, seconded by Menefee, to recommend approval of the regulations with (1) modifications to Section 12-2.04 removing the word “liberally” and “and in favor of the governing body”; and (2) for staff to prepare a plan for a minimalistic approach to the regulations and present that at a future meeting. The motion passed by a vote of 5 in favor (Broers, Menefee, Elliott, Kitchen & Manchester) and 1 opposed (Raney).

GENERAL DISCUSSION:

ANNOUNCEMENTS BY STAFF / COMMISSIONERS

Cook announced the next regular Planning Commission meeting will be on July 7, 2024 at 7:00 p.m.

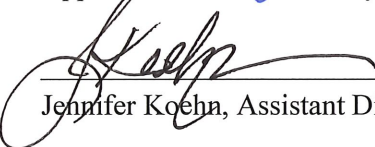
Possible Future Amendments to Zoning and Subdivision Regulations

- 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.

Raney moved to adjourn the meeting; Kitchen seconded. The meeting adjourned at 9:18 p.m. the motion passed 5-1 with Kitchen voting against, via show of hands.

Approved this 3rd day of Sept., 2024.



Jennifer Koehn, Assistant Director



Kelli Broers, Chair / Topher Philgreen, Vice-Chair

Minutes written by Jennifer Koehn