

FINAL

REGULAR MEETING MCPHERSON COUNTY PLANNING COMMISSION MINUTES November 14, 2023

Meeting was held at the 1st Floor, McPherson County Bank Building, 122 W. Marlin St, McPherson, KS.

At 7:00 pm **Chairperson Kathy Nicholson** called the meeting to order and welcomed those in attendance. She asked that the audience members sign in and reminded everyone to silence their phones during the meeting.

Kathy Nicholson called on Recording Secretary, Carissa McCuen to take roll call. **Members present:** Lori Bower, Kathy Nicholson, Christina Reynolds, Shelby Shaw, Jeff Smith, Glenda Taylor, Jim VanGoethem, and Raymond Williams. **Members absent:** Chris Goodson.

Jon Kinsey, Board Secretary and **Carissa McCuen**, Recording Secretary, were also in attendance.

Guests in Attendance

Dave Bohnenblust
Mary Bohnenblust
James Bohnenblust
Jennifer Flood
Paul Johnson
Rebecca Buller
Coleen Flickner
Emery Flickner
Arlene Sawatzky
Russell Dick
Tiffani Floyd
Gary Patrick
Eileen Patrick
Milton Collins

Kathy Nicholson called for a motion to amend the agenda by moving the Board of Zoning appeals docket before the Planning Board docket on the agenda. **Kathy Nicholson** called for a motion to approve the agenda as amended. **Jeff Smith** made a motion to approve the agenda as amended. **Lori Bower** seconded the motion. **All voted aye. Motion carried.**

Kathy Nicholson called for a motion to approve the **September 19th, 2023** minutes as presented. **Lori Bower** made a motion to approve the minutes as presented. **Raymond Williams** seconded. **All voted aye. Motion carried.**

Kathy Nicholson called for the first item under the **Board of Zoning Appeals Docket**. **Kathy Nicholson** stated there was no old business on this docket. **Kathy Nicholson** called for new business **1842 Cherokee Road-Variance Compliance** on the Board of Zoning Appeals

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Docket. **Board Secretary, Jon Kinsey** called for a closed session with all the Board Members that were present, Jon Kinsey, Rebecca Buller, Jennifer Flood, and Tiffani Floyd for a duration of 15 minutes. **Jon Kinsey** stated with was for **Variance Case 2015-01**. No action was taken in closed session.

Kathy Nicholson opened the **Planning Board** portion of the hearing.

Kathy Nicholson read the ground rules for public hearings.

Kathy Nicholson called for **SU23-04, Special Use for a second residential unit-1720 W. Kansas Avenue, McPherson** under New Business.

Kathy Nicholson asked the board members if any of them intend to disqualify themselves. No board members disqualified themselves.

Kathy Nicholson stated according to the Secretary's Report notices were sent to the applicant, and real property owners **October 6, 2023**, and the notice for the hearing was published in the McPherson Sentinel **October 11, 2023**. **Kathy Nicholson** declared proper notification was given.

Kathy Nicholson asked the board members if there had been any ex parte communications on the case. There was none.

Kathy Nicholson called on **Administrator, Jon Kinsey**, to provide the background on the case. **Jon Kinsey** did note the draft copy had an incorrect name as the property owner and that would need to be corrected. **Jon Kinsey** provided information on the zoning, and neighborhood characteristics at this location. **Jon Kinsey** stated staff is recommending approval for this Special Use case as the request meets the stated factors and findings. **Kathy Nicholson** asked if there were any questions from the Board Members for the **Administrator, Jon Kinsey**. There were none.

Kathy Nicholson read the 17 factors and findings; **Jon Kinsey** replied.

17 Factors of Findings:

Following are the seventeen (17) factors upon which the Planning Board should base their recommendation. Of the factors considered as relevant to the requested special use, not all factors need to be given equal consideration by the Board in deciding upon its recommendation.

Staff's comments are in *italics* and follow each of the factors.

1. What is the character of the subject property and the surrounding neighborhood in relation to existing uses and their condition?

The subject property is residential land surrounded by other residential and agricultural lands.

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the request?

A-2, Agricultural Transition District. This district is designed to retain rural characteristics, but to also serve as a transition from incorporated municipalities to the A-1 Agriculture District while accommodating selected nonagricultural uses and an increasing number of lower density nonfarm residences.

3. Is the length of time the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

No.

4. Would the request correct an error in the application of these regulations?

No.

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

No.

6. Do adequate sewage disposal and water supply and all necessary utility facilities, including road or street access, exist or can they be provided to serve the uses that would be permitted on the subject property?

Sewage Disposal: Complies to McPherson County Sanitation Code

Water Supply: Complies to McPherson County Sanitation Code

Road/Street Access to the Parcel: Yes

Road/Street Access to the Project Site: This is a private drive.

7. Would the subject property need to be platted or re-platted or in-lieu-of dedications made for the rights-of-way, easements, access control, or building setback lines?

No, Staff doesn't believe the property should be platted.

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

Due to the natural setting, staff doesn't feel a screening plan is necessary.

9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?

No, all of the properties abutting to this property are residential with a set of train tracks to the immediate North separating the subject property to the north abutting agricultural land.

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

The project is not a commercial or industrial use.

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11. Is the subject property suitable for uses in the current zoning to which it has been restricted?

Yes, the A-2 Agricultural Transition District is suitable.

12. To what extent would the removal of the restrictions, i.e., the approval of the Special Use request, detrimentally affect other property in the neighborhood?

Staff doesn't believe the granting of the Special Use will have detrimental effects on surrounding properties.

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

Yes, the request is consistent with the purpose of the zoning district classification.

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the plan?

The request does not appear to conflict with the Comprehensive Plan.

15. What is the nature of the support or opposition to the request?

This will be determined at the public hearing.

16. Is there any information or are there recommendations on this request available from professional person or persons with related expertise that would be helpful in its evaluation?

There is no information.

17. By comparison, does the relative gain to the public health, safety, and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

No.

Kathy Nicholson called on the board for discussion. **Jim VanGoethem** asked for clarification on #14 of the Factors and Findings. **Jon Kinsey** replied that due to the residential nature of the location this does not conflict with the implementation of the plan. **Jeff Smith** had a question about the source of water in that area, specifically if they were on water wells. **Jon Kinsey** stated he believed they were mostly on wells and that the applicant was present to ask.

Kathy Nicholson called on the applicant.

Dave & Mary Bohnenblust -1720 W. Kansas. **Mr. Bohnenblust** wanted to reply to **Jeff Smith's** questions in that most everyone in this area is on well water, and either lagoons or septic with lateral lines. He also stated he heard there may be rural water in the area, but that the area is mostly served by water wells. **Mr. Bohnenblust** described his property and his proposed project. His son would move to the property, and they would build a small retirement home on the property. Their plan is for a two-bedroom, 1,000 square foot structure in the Northeast area of the parcel. He stated they have talked to most of the neighbors, and they are supportive. He stated they tried to buy some additional acreage from one of the neighbors but that did not work out.

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Glenda Taylor asked the applicant if the existing lagoon would support the use. **Mr. Bohnenblust** stated it was one of the larger lagoons in the area, and their proposed use would not exceed the use in the past, he also stated the lagoon was deepened about ten years ago. **Mr. Bohnenblust** referred this question to **Carissa McCuen**, County Sanitarian. **Carissa McCuen** stated it was a large lagoon, and that if it does not work an on-site system can be installed.

Christina Reynolds asked the applicant if they had plans to rent the home out, or if it was for family use only. **Mr. Bohnenblust** responded that in the long term if something happened to him and his wife, it would stay with family.

Kathy Nicholson asked if there was any public comment. **Jon Kinsey** added that since the property is in the A-2 District and is in the Extra-Territorial Jurisdiction of the City of McPherson, the property would get a permit from the County but would also be subject to the City building code. **Kathy Nicholson** asked if the applicant understood, and **Mr. Bohnenblust** stated yes.

Kathy Nicholson closed the public portion of the hearing.

Kathy Nicholson asked if the board members had any discussion at this time. **Jim VanGoethem** asked if there were any conditions for this that would prohibit any rental of the property. **Jon Kinsey** responded that there is a list of conditions listed in the report.

Kathy Nicholson read the list of conditions listed in the report.

Conditions:

In granting a special use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met, unless otherwise reduced by a specific reference in these regulations. The requirements may be made more stringent if there are potentially injurious effects that may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

If approved by the Board, the following are staff's preliminary recommended conditions. Conditions may be added or deleted prior to or at the Public Hearing.

1. This special use allows for the construction and operation of a secondary residential unit and must be operated as specified in the application. Any changes to the plan or the site must be approved by application for a new special use.
2. The property shall not be further subdivided or further reduced in size.
3. All Accessory Structures must remain accessory to and under the same ownership as the Principal Dwelling (single-family residential) and CANNOT be subdivided, sold, or leased as rental property or a condominium.
4. The appearance of any and all Accessory Structures shall be compatible with the character of the neighborhood.

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5. The **property owner** shall submit and pay for the following permits:
 - Zoning Permit for an Accessory Structure
6. The **property owner** shall have all systems connected to existing systems and pass inspection:
7. The off-street parking space and standards required per Article 5 of the McPherson County Zoning Regulations must be met.
8. All lighting must be shaded as to not intrude upon any adjacent residential properties.
9. Upon discontinuance of the special use for any 12-consecutive months the special use shall become null and void. Following this time period, it shall be necessary to re-apply in the original manner in order to be considered for a new special use to restart this use.
10. If approved by the Board of County Commissioners, a copy of the approving Resolution shall be **filed and paid for by the applicant and or property owner** with the McPherson County Register of Deeds Office.

Kathy Nicholson called for a motion on the case. **Jeff Smith** made a motion to recommend to the governing body that case **SU23-04** for a second residential unit be approved. **Lori Bower** seconded the motion. **All voted aye.** **Kathy Nicholson** stated the case shall be forwarded to the governing body with the Planning Board's recommendation and a summary of the hearing for December 4th, 2023, Board of County Commissioners Meeting.

Kathy Nicholson called Planning Board Docket-Old Business, item (i) Article 11-105 Annual Review of Zoning Regulations. **Jon Kinsey** stated that the item would be addressed under the New Business-Model Code.

Kathy Nicholson call for item (ii) under New Business-meeting date change to the second Monday of the month. **Kathy Nicholson** asked the board if there was any discussion of this item. There was none. **Jeff Smith** made a motion. **Jim VanGoethem** seconded the motion. **All voted aye. Motion carried.**

Kathy Nicholson called for item (iii) under New Business-Annual review of the Comprehensive Plan. **Jon Kinsey** stated this is required by Planning Board by-laws under Article 1-Section 6-item 2. **Jon Kinsey** recalled this was reviewed in August or September and stated they needed a motion to move forward. There were no changes to the comprehensive plan. **Kathy Nicholson** stated that they need a motion to approve the review of the comprehensive plan. **Jeff Smith** motioned. **Lori Bower** seconded the motion. **All voted aye. Motion carried.**

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Kathy Nicholson called for item iv. **ZA23-04-Model Code Floodplain Management**.

Kathy Nicholson called on Board Secretary, **Jon Kinsey**, to verify that notification for the hearing was published. **Jon Kinsey** stated that it was published in the McPherson Sentinel on October 18th, 2023. Notifications were sent to all Township Trustees, Clerks, and City Clerks within McPherson County. **Jon Kinsey** also made a notation of the time being 7:47 pm.

Kathy Nicholson called upon **Jon Kinsey** to provide a summary of the revisions. **Jon Kinsey** discussed the 2009 Floodplain Management rules adopted from the Kansas Department of Water Resources. There were changes made to this document earlier in 2023 so they adopted a new model code. One of the changes being a reformatting of the document, the other change was their view on non-residential structures. In the past these types of structures would have needed to have a Variance case heard by the Board of Zoning Appeals for approval. The approach is that you're not living in that and therefore you would not be getting flood insurance on such a structure, it would still need to be constructed in a manner that floodproofing would be required but the Variance approval is not required.

Kathy Nicholson asked if there was any public comment at this time. There was none.

Kathy Nicholson asked if there has been any written communication received. There was none.

Kathy Nicholson closed the public portion of the hearing.

Kathy Nicholson asked if the board members had any discussion. There was none.

Kathy Nicholson requested a motion to approve, or table. **Lori Bower** moved the Board recommend that the Board of County Commissioners of McPherson County adopt Floodplain Management case ZA23-04 for McPherson County Kansas. **Jeff Smith** seconded the motion. **Kathy Nicholson** announced that the new revised 2024 Floodplain Management case ZA23-04 will be forwarded to the Board of County Commissioners for their consideration at their meeting on December 4, 2023, no earlier than 9am, in the 1st Floor Meeting Room at 122 W. Marlin St. McPherson Kansas. At this time **Jon Kinsey** asked **Kathy Nicholson** to call for a vote. **All voted aye. Motion carried.** **Kathy Nicholson** then stated the forwarding of the case and that there is no waiting period for consideration.

Jon Kinsey asked **Kathy Nicholson** to call for a motion to close this portion of the public hearing. **Glenda Taylor** made the motion to close. **Jeff Smith** seconded the motion. **All voted aye. Motion carried.**

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At 7:52 PM **Kathy Nicholson** opened the public hearing to consider the adoption of the revised Subdivision Regulations for McPherson County, Kansas.

Jon Kinsey stated that the only county officials and county staff present were himself, and **Carissa McCuen**.

Kathy Nicholson called on Planning Board Secretary, **Jon Kinsey**, to verify that notification for the hearing was published. **Jon Kinsey** stated that it was published in the McPherson Sentinel on October 18th, 2023. Notifications were sent to all Township Trustees, Clerks, and City Clerks within McPherson County.

Kathy Nicholson called on the Subdivision Administrator, **Jon Kinsey**, to provide a summary of proposed revisions to the Subdivision Regulations. **Jon Kinsey** explained that the document had some format changes for easier reading. **Jon Kinsey** also explained that when there is a preliminary plat or final plat submission two additions were made. One being that with the preliminary plat submission a required letter from the rural water district stating they can support the subdivision proposal, if the proposed subdivision is not on rural water, then an engineer report is required that there is sufficient capacity for water wells. Also, it will be a requirement for a soil survey to be completed to help determine on-site wastewater disposal options.

Kathy Nicholson asked the board if they had any questions. There was none.

Kathy Nicholson then asked the public if they had any questions or comments. There was none.

Kathy Nicholson asked the Subdivision Administrator if there had been any written communications received. **Jon Kinsey** responded that he had not received any.

Kathy Nicholson requested a motion. **Glenda Taylor** moved that the proposed revised Subdivision Regulations for McPherson County, Kansas dated November 14, 2023, be adopted as a Model Code and that they be recommended to the Board of County Commissioners for approval by incorporation into an effectuating resolution for publication. **Lori Bower** seconded the motion. **Kathy Nicholson** called for a vote. **All voted aye. Motion carried.** **Kathy Nicholson** announced that the revised Subdivision Regulations adopted as Model Code will be forwarded to the Board of County Commissioners for their consideration at their meeting on December 4, 2023, no earlier than 9:00 AM on the 1st Floor Meeting Room at 122 W. Marlin St. McPherson.

Kathy Nicholson asked for a motion to close the public hearing. **Shelby Shaw** made a motion to close the public hearing. **Lori Bower** seconded the motion. **Kathy Nicholson** called for a vote. **All voted aye. Motion carried.**

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At 7:58 PM **Chairperson Kathy Nicholson** opened the public hearing to consider adoption of revised Zoning Regulations and Official Zoning District Map for McPherson County, Kansas.

Kathy Nicholson called on Planning Board Secretary, **Jon Kinsey**, to verify that notification for the hearing was published. **Jon Kinsey** stated that it was published in the McPherson Sentinel on October 18th, 2023. Notifications were sent to all Township Trustees, Clerks, and City Clerks within McPherson County.

Kathy Nicholson called on **Zoning Administrator, Jon Kinsey** to provide a summary of the proposed revisions to the Zoning Regulations. **Jon Kinsey** discussed resolutions and amendments that have been made to the 2009 Zoning Regulations, and that this revision would bring all those amendments into one document. **Jon Kinsey** discussed the rewritten portions of the code including Article 7-Signs, this section was rewritten, due to Supreme Court findings that signs need to be message neutral, this does not refer to the actual message on the sign but the use of the sign. The other change is Conditional Use cases, their placement in the code, and how they are processed. Conditional Use cases will be processed in the same manner as Zoning Amendments, and Special Use Cases. Also, the notification area for public hearings was set to at least a half-mile, the State Statute says it must be at least 1,000 feet. **Jon Kinsey** explained a large portion of the County is in an A-1 area, and this makes it cost prohibitive for applicants. **Jon Kinsey** explained in what instances the notification area will remain at least a half-mile, and where it will be reduced to 1,000 feet.

Kathy Nicholson asked the board if they had any questions. There was none.

Kathy Nicholson then asked the public if they had any questions or comments. There was none.

Kathy Nicholson asked the Zoning Administrator if there had been any written communications received. **Jon Kinsey** responded that he had not received any. **Jon Kinsey** pointed out to the Board that there were copies of the regulations displayed, as well as the zoning map. **Jon Kinsey** explained once approved and adopted, the official copies will be made available to the public through the County Website, the Planning & Zoning office, and at the County Clerk's Office.

Kathy Nicholson requested a motion. **Lori Bower** moved that the proposed revised Zoning Regulations for McPherson County, Kansas, and the Official Zoning District Map be adopted as a Model Code dated November 14, 2023, and that they be recommended to the Board of County Commissioners for approval by incorporation into an effectuating resolution for publication. **Christina Reynolds** seconded the motion. **Kathy Nicholson** called for a vote. **All voted aye. Motion carried.** **Kathy Nicholson** announced that the revised Zoning Regulations adopted as Model Code will be forwarded to the Board of County Commissioners for their consideration at their meeting on December 4, 2023, no earlier than 9:00 AM on the 1st Floor Meeting Room at 122 W. Marlin St. McPherson.

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Kathy Nicholson asked for a motion to close the public hearing. **Shelby Shaw** made a motion to close the public hearing. **Jeff Smith** seconded the motion. **Kathy Nicholson** called for a vote. **All voted aye. Motion carried.**

Kathy Nicholson called for item vii-Establishing of a Subdivision Subcommittee
Glenda Taylor
Kathy Nicholson
Jeff Smith

Kathy Nicholson called for item viii-Establishing of a Regulation Subcommittee. **Jon Kinsey** explained this committee would be looking at regulations, and making recommendations, and advisory to the Department Administrator.
Jim VanGoethem
Raymond Williams
Christina Reynolds

Kathy Nicholson brought back the item vii-Subdivision Subcommittee. **Kathy Nicholson** stated **Jim VanGoethem** to take her place on the subdivision subcommittee. **Jon Kinsey** suggested this Subcommittee meeting to take place before the regular board meeting time.

Kathy Nicholson now called for the public input portion of items not listed on the agenda. **Paul Johnson, Bonaville Township Trustee** came forward. He asked if the EVC's and Small-Scale Solar regulations were to be discussed. **Jon Kinsey** stated he could address those at this time. **Jon Kinsey** explained residential solar accessory permitting in the current regulations vs. the proposed changes that would limit the location, and size of the accessory. **Jon Kinsey** then discussed a Federal Plan for Kansas, called the NEVI Plan for Electric Vehicle Charging Stations. **Jon Kinsey** discussed the different levels of charging. **Jon Kinsey** discussed what zoning districts the different charging levels would be permitted. **Paul Johnson** replied that regulating these by charging speed is not looking to the future. **Jon Kinsey** explains that the charging speeds for levels 1, 2, and 3 are an Industry Standard in the NEVI Plan. **Jon Kinsey** explained as technology moves forward and changes that the regulations may need revision to support industry and technology changes. **Paul Johnson** stated again he felt that charging speed as a criterion was very limiting. **Kathy Nicholson** stated she isn't sure how we can regulate what may happen in the future and that technology changes the regulations can be amended in the future if technology changes. **Jon Kinsey** stated this is an example of what the Regulation Subcommittee would be looking at, and that **Mr. Johnson** is free to join that committee if he would like. **Jeff Smith** asked Mr. Kinsey about the Zoning Regulations addressing battery back up for Small-Scale Solar, **Jon Kinsey** explained the permitting/registration process that is in the new Model Code proposal, these registrations would be shared with the fire district and emergency management.

Kathy Nicholson asked if there were any more public comments. There were none.


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Kathy Nicholson then called for the Zoning Administrator's report. **Jon Kinsey** offered his report on permit statistics, phone calls taken, status of past cases. **Jon Kinsey** discussed the land use case notification process, including the design of a sign with McPherson County Public Works to be posted for land use cases. **Jon Kinsey** also gave a brief update on the project that will take the department digital.

Kathy Nicholson asked if there were any pending cases for December. **Jon Kinsey** replied that were not but that he would ask to maintain the December 11th, 2023, meeting date as scheduled, and that the next schedule meeting after that would be January 8th, 2024. **Jon Kinsey** also congratulated **Shelby Shaw** on being the newest member of the board, also extend further gratitude to **Jeff Smith**, **Jim VanGoethem**, and **Raymond Williams** for their acceptance of their next terms on the board.


Chairperson Nicholson called for a motion to adjourn the regular meeting.

Jeff Smith made a motion to adjourn the meeting. **Raymond Williams** seconded. **All voted aye. Motion carried.**



Chairman
1-10-24

Date



Secretary