

EDGERTON COMMUNITY BUILDING  
PLANNING COMMISSION MEETING  
Special Session  
November 4, 2014  
Minutes

Prior to the meeting, Randal Gifford, was sworn in as Planning Commissioner.

The Edgerton Planning Commission met in special session with Chair Davis calling the meeting to order at 7:30 p.m.

All present participated in the Pledge of Allegiance.

The Roll Call was answered, indicating those present were: Commissioners Chuck Davis, Ron Conus, Maria O'Neill, Andrea Lucero, Cliff Withrow, and Randal Gifford. Absent were: Missy Drinkard and Bob O'Neill. Also present were City Administrator Beth Linn and Recording Officer Debra Gragg.

The Recording Officer announced a quorum was present.

### **MINUTES**

Minutes of September 9, 2014 were considered.

Motion by Withrow, seconded by M. O'Neill, to approve the minutes. Motion was approved, 6-0.

### **COMMUNICATIONS**

The City Administrator welcomed Randal Gifford to the Planning Commission. Mr. Gifford was appointed to the Commission for a three-year term. Mr. Gifford reviewed his background and expressed his interest in being part of the community.

Ms. Linn informed the Commission the City's newest position, Community Development Director, would be filled by Kenny Cook. They were told he would start on November 13, 2014. Mr. Cook's background was shared. Mr. Cook will oversee planning matters and will be serving as the contact for the Planning Commission.

Ms. Linn indicated each Commissioner had a roster placed at their location and asked for each member to review and make corrections. Ms. Linn also noted the notification for the planning agenda packet is sent through ande-mail from Constant Contact. She asked members to advise if they are not receiving the e-mail message.

## **NEW BUSINESS**

### **PUBLIC HEARING – CONDITIONAL USE PERMIT**

Public hearing for Conditional Use Permit, CU-10-08-2014, requesting consideration of a conditional use permit for installation and use of a billboard sign, located in the east one-third of the Northeast Quarter, excluding 1.66 acres in Highway, of Section 9, Township 15, Range 22 (20080 Homestead Lane) was opened. Applicant: Tim Gates, Agnes Gates Realty. Owners: Jeffrey and Jennifer Thorp.

The City Administrator informed the Commission this property is zoned C-2 and indicated the Unified Development Code allows billboards within this zoning. She noted the size of the billboard requires the approval of a conditional use permit. Ms. Linn also noted this application is identical to the 2013 application. It was reported this proposed sign would be 57' tall, with a two-sided face with each face illuminated. She indicated the proposed sign's face would be 14 foot by 48 foot. The height of the sign was recommended by the sign company to allow vehicles travelling south on I-35 to view the sign over the interchange. Ms. Linn reviewed the conditions for this matter.

Tim Gates, applicant, indicated this is identical to the same application presented in 2013. He stated that at last year's submittal, the interchange had not opened and all were uncertain how the area would operate. Mr. Gates stated a berm would be constructed for the Cole property which is the most impacted/exposed residence to this use.

Colleen Cole, 19911 Pepper Tree Lane, spoke with concern regarding the buffer. She stated the berm is to protect her property from the light of the billboard. She indicated the area is in the midst of change and she wants to be sure this use is the most fit.

Michelle Kreiser, 19905 Pepper Tree Lane, stated concern with the billboard as a "For Sale" sign.

Marshall Wolfe, 20090 Pepper Tree Lane, added his concern with the number of billboards. Mr. Wolfe questioned who is responsible for mowing around the poles of the billboards.

Ms. Linn stated the City's codes place the land maintenance responsibility on the property owner. She noted there are some exemptions for agriculture property. She added the unincorporated properties are not under the same requirements.

Mr. Wolfe stated he observed City staff mowing right-of-way within the area. Ms. Linn addressed. Mr. Wolfe questioned if the mower used could accommodate. Ms. Linn addressed the City's future goals in regards to this and similar issues.

Matt Stueck, PrairieTree Farms at 32350 W. 199<sup>th</sup>, stated this area is changing. He noted with the road and interchange open, land has sold and development is underway which adds to more of the concerns within this area. He stated billboards are an "old" technology and they do not enhance the area nor add to the land developments; he indicated they are not best for the community.

Mr. Kreiser, 19905 Pepper Tree Lane, stated there are too many billboards already.

Mr. Gates spoke about the uses and purpose of the billboard.

Ms. O'Neill asked about the comparison of billboards from the 20<sup>th</sup> to 21<sup>st</sup> Century. Mr. Gates addressed the needs of businesses and billboards. He stated that not all businesses seek property through electronic means, and noted there are some purposes in impulse decisions.

Ms. Lucero questioned what happens to the impacted homeowners if this use should be allowed.

Mr. Gates indicated the street lights from the interchange are very bright and stated he doubted if this proposed sign's lights would outshine. He noted the lighting falls off about 100 foot before the home.

Mr. Conus asked about the one year review with the five-year approval. Ms. Linn addressed this matter, adding that one year will indicate if the applicant is complying.

Mr. Withrow questioned what happens if the sign is in disarray. Ms. Linn indicated that in general, Unified Development Code Chapter 12.6 pertains to design, material, and sign construction. Part of the Code indicates ..."all signs shall be maintained in good visual order and safe structural condition and in compliance with all applicable provisions of the building codes of the City of Edgerton"...

Mr. Conus questioned if the applicant did not abide by the stipulations. Ms. Linn indicated if the use is out of compliance, the City has ability to rescind.

Motion by Conus, seconded by M. O'Neill, to close the hearing. Motion was approved, 6-0.

Ms. Lucero indicated five years is a long time for resolve if there is an issue.

Mr. Davis stated the matter is not totally out of the City's control if the use is out of compliance, the City could take appropriate actions.

Mr. Gates and Ms. Linn talked about the lighting standards of the City. It was noted the light spillage photometrics for this request are less than City standards. Mr. Gates noted the landscape berming is an attempt to mask the light of the billboard.

Mr. Gates stated to voluntarily monitor the content on the billboard to exclude “sexually explicit” material.

Discussion ensued in regards to adding the monitoring as a stipulation. The decision was to add to the listing.

Motion by Conus, seconded by Withrow, to approve the conditional use request with the following stipulations: 1) All sign application requirements of the City shall be met; 2) Application and construction plans must be in compliance with all applicable building codes; 3) Sign must be kept in good repair in accordance with City of Edgerton Unified Development Code; 4) Prior to issuance of a building permit for the construction of the billboard sign, Property Owner must construct buffer that is agreed to during annexation process; 5) Any major modification to the billboard sign [as defined by city staff] would require a new or amended conditional use permit; 6) Conditional Use Permit will be subject to one year review; 7) Conditional Use Permit will be valid for no more than five (5) years, and applicant understands that the granting of the application does not create any vested property right that the billboard can remain on the property; and 8) Applicant to voluntarily exclude sexually explicit material.

The vote on the motion: YEA: Davis, Conus, M. O’Neill, and Withrow. NAY: Lucero and Gifford. Motion was approved 4-2.

Ms. Linn informed the Commissioners the matter would be presented to the Council on December 11, allowing for the required protest period.

### **PUBLIC HEARING - REZONING**

Public hearing for Rezoning Case No. RZ-10-08-2014, requesting a change in zoning from Johnson County RUR to City of Edgerton L-P on a tract of property located in the southwest corner of 191<sup>st</sup> and Waverly Road, within Section 3, Township 15 South, Range 22 East, containing 141.38 acres, more or less, was opened. Applicant: Patrick Robinson, ELHC. Engineer: Dan Cook, Renaissance Infrastructure Consulting.

The City Administrator overviewed the location for this rezoning and reviewed the reason indicating this is the fourth phase of development of Logistics Park Kansas.

Ms. Linn overviewed the infrastructure and services which noted Waverly Road is gravel surfaced adjacent to the property, adding 191<sup>st</sup> Street is paved for a heavy haul road. It was noted the property is within the Big Bull Creek watershed and will need an approved stormwater plan prior to development. The Commission was informed that proposed Tract A, approximately five (5) acres is located within the FEMA designated flood plain and floodway, which will be noted on the final plat and site plan. The property does not have sewers and is within the service area of Rural Water District No. 7. Proposed Lot 3 will house a water tower, which is necessary to provide adequate fire

flow to the surrounding area. Public safety services will be provided by Johnson County Sheriff's Department and Johnson County Fire District No. 1.

The Commission was informed this request was reviewed with respect to the Unified Development Code, Kansas statutes, and the "Golden Criteria." The eighteen sections of the "Golden Criteria" were briefly reviewed.

Ms. Linn noted that under staff's recommendations of stipulations, Stipulation No. 3 is not applicable and should be removed from the listing.

Patrick Robinson, applicant, stated this is the fourth phase of development and stated agreement with staff's recommendations and also for the removal of the benefit district stipulation. He requested the Commissioner's support of this request. He also overviewed the status of projects.

Motion by Withrow, seconded by Lucero, to close the public hearing. The motion was approved, 6-0.

Motion by Lucero, seconded by M. O'Neill, to approve the rezoning request with the following stipulations: 1) All Site Plan application requirements of the City shall be met; 2) All infrastructure requirements of the City shall be met; and 3) Prior to issuance of building permits, the property shall be developed in accordance with a Site Plan reviewed and approved by the City. The motion was approved, 6-0.

### **PUBLIC HEARING – PRELIMINARY PLAT**

Public hearing for Preliminary Plat Case No. PP-10-08-2014 requesting approval of a preliminary plat for Logistics Park Kansas City Phase IV on property in the southwest corner of 191<sup>st</sup> and Waverly Road, within Section 3, Township 15 South, Range 22 East, containing approximately 141.38 acres, more or less, was opened.

Owner/Developer: Patrick Robinson, Edgerton Land Holding Company. Engineer: Dan Cook, Renaissance Infrastructure Consulting.

The City Administrator reviewed the preliminary plat and spoke about the utility easements, which are not shown. She also spoke about dedication of trailway easements and dedication of right-of-way along Waverly Road. In addition, it was noted that a drainage easement should be dedicated for the flood zone areas and detention areas. Ms. Linn also indicated the need for an executed agreement not to protest formation of a benefit district for 191<sup>st</sup> Street sidewalk improvements. She also indicated the need to show proposed sidewalks, sanitary sewer, storm sewer, water main and fire hydrants. Ms. Linn stated the applicant shall work with City staff to determine access points for safety of traveling public, because the access points on the preliminary plat are located to close to each other.

Ms. Linn indicated the south end of the plat includes a new east to west street which would serve the development. She noted the need for right-of-way for this street to be shown at 80' in width all north of the section line.

Commissioner Conus left at 8:54 p.m. and returned at 8:55 p.m.

Ms. Linn indicated more answers regarding the right-of-way and future railway system would be received with the final plat submittal.

Patrick Robinson, applicant, stated he agreed with the stipulations. He stated the orientation of the buildings is difficult due to the size of the facilities. He noted the travelling public will mostly face 191<sup>st</sup> Street which will offer limited viewing. Mr. Robinson stated there is excitement about a trails system within the area and how that could work and also its enhancement to the community. He spoke about the 80' right-of-way and indicated he would work with the City to accomplish the street's needs.

Mr. Robinson asked for the Planning Commission's support.

Motion by Withrow, seconded by M. O'Neill, to close the hearing. The motion was approved, 6-0.

Motion by M. O'Neill, seconded by Gifford, to approve the preliminary plat with the following stipulations: 1) All preliminary plat requirements of the City noted shall be met or addressed during Final Plat submittal as identified. 2) The preliminary plat is approved for a one-year period and shall be extended for an additional year upon the approval of a final plat for the same parcel of land or any part thereof. If a final plat is not approved for a portion or all of the land covered under the preliminary plat within one year, the preliminary plat shall be ruled null and void. The Planning Commission upon submittal and approval of a written request may grant a one-year extension on the approval of the preliminary plat; and 3) All infrastructure requirements of the City shall be met. The motion was approved, 6-0.

### **PUBLIC HEARING – PRELIMINARY SITE PLAN**

Public hearing for Preliminary Site Plan Case No. PS-10-08-2014 requesting approval of a preliminary site plan on property located in the southwest corner of 191<sup>st</sup> and Waverly Road, within Section 3, Township 15 South, Range 22 East in Johnson County, Kansas containing approximately 141.38 acres, more or less, was opened.

Owner/Applicant: Patrick Robinson, Edgerton Landholding Co. Engineer: Dan Cook, Renaissance Infrastructure Consulting.

The City Administrator informed the Commissioners the applicant requested this public hearing be continued to December 9, 2014.

Motion by Withrow, seconded by M. O'Neill, to table the opened public hearing until December 9, 2014. The motion was approved, 6-0.

### **FINAL SITE PLAN**

Final Site Plan, FS-10-08-2014, requesting approval of construction of a water tower to provide water services for fire protection for a portion of Logistics Park located on a tract of property in the southwest corner of 191<sup>st</sup> Street and Waverly Road, within Section 3, Township 15 South, Range 22, containing .77 acres, more or less, was considered. Applicant: John A. Thomas, Northpoint Development. Engineer: Dan Cook, Renaissance Infrastructure Consulting.

The City Administrator indicated this parcel is located on Lot 3, Phase 4 and is a final site plan based on the proposed Preliminary Site Plan for LPKC Phase IV. She noted the construction of the water tower is part of the infrastructure identified in the three-party Plan of Finance for Logistics Park Kansas City which was entered into by the City of Edgerton, Burlington Northern Santa Fe Railway and Edgerton Land Holding Company (ELHC). It was noted ELHC will construct the tower, which will be deeded to Johnson County Water District No. 7 when complete. Ms. Linn indicated the tower will supplement fire flows to serve Logistics Park Kansas City.

Ms. Linn briefly overviewed the infrastructure and services.

The City Administrator overviewed the compliance of the final site plan as reviewed by staff. Highlights for needs included: need for landscaping on the site plan; a fence is proposed for the exterior of the project, with no fencing material specified. Ms. Linn informed the Commissioners that chain link fencing is not permitted within LPKC where visible from street view.

Patrick Robinson, ELHC, addressed the Commissioners stating the need for the development to adhere to FAA regulations because this proposed tower will fall within the airport flight path.

Mr. Robinson also requested the possibility of a deviation to the fencing regulations. He stated that overall he would need to work with Water District No. 7, but suggested the allowance of using coated chain link fencing, which is common for this use.

Discussion ensued regarding height and FAA regulations and the potential variance for fencing materials.

Motion by Lucero, seconded by Conus, to approve the final site plan with the following stipulations: 1) All Site Plan requirements of the City shall be met as noted, particularly including: a) Submittal of photometric lighting plan in conformance with UDC, not including any lighting requirements by the FAA; b) Submittal of plan for pedestrian access to and within the development. c) Construction plans for future public infrastructure be submitted and approved by the City. Any necessary permits obtained. d) Submittal of landscaping plans including screening for adjacent public roads and trash enclosures. All landscaping shall be maintained in good condition and plants shall

be replaced when dead; 2) All construction plans for any public infrastructure shall be prepared to City standards and approved by the City; 3) All building permit and sign permit requirements of the City shall be met; and 4) Allow deviation of LPKC zoning for construction of black vinyl coated chain link fence with screening and landscaping. Motion was approved, 6-0.

### **FINAL SITE PLAN – EXTENSION OF TIME**

A request for extension of time to complete installation of hard surface in regards to Final Site Plan, S-11-15-2013, located on a tract of land located in the southeast corner of 191<sup>st</sup> Street and Homestead Road, in the northwest one-quarter of Section 3, Township 15, Range 22 and a part of Tract A and Tract B according to the survey recorded in Book 201207, Page 000700 in the Register of Deeds Office, Johnson County, Kansas, containing approximately 31.860 acres, more or less, was considered. Applicant: Craig Swope, ITL Engineer: Dan Cook, Renaissance Infrastructure Consulting.

City Administrator Beth Linn informed the Commissioners the Final Site Plan for this property was reviewed and approved by the Planning Commission on December 10, 2013. She reported the property received a conditional use permit for cargo container storage in January, 2014. It was noted that during presentations to the Planning Commission and City Council, ITL discussed the need to begin storage of cargo containers and chassis prior to installation of hard surface as required by the City. As part of the formalization of the request, staff recommended ITL submit a phasing plan, which was approved by the Planning Commission in April, 2014 and amended into the Final Site Plan. The phasing plan approval allowed cargo containers and chassis to be stored on unimproved surface until October 31, 2014 or until completion of Phase II, whichever is first. It was noted Phase II is not complete and ITL requests an extension until June 30, 2015.

Ms. Linn overviewed the staff analysis of the unimproved storage surface, development of Phase II, limitation to the height of storage containers and chassis, and installation of temporary non-chain link fencing in areas visible from the public right-of-way.

Craig Swope, ITL, reviewed phases I and II. He informed the Commissioners there was a delay in State of Kansas approval for the land disturbance. He also noted that weather impacted the construction schedule.

Ms. Lucero questioned the impacts to the neighbors of the storage on the unimproved surface.

The City Administrator indicated this was the first request of such, but noted unusual circumstances hampered this project. Temporary surfacing was briefly discussed. It was noted the final deadline for surfacing would be firm; operations will cease if not completed on June 30, 2013.

Motion by M.O'Neill, seconded by Gifford, to approve the **final request for extension of time to June 30, 2015** with the following stipulations: 1) Limit height of storage of containers to three (3) high and chassis to five (5) high; 2) Require completion of outstanding planning and zoning items (recording of final plat, filing of final site plan, etc.) prior to issuance of a building permit; 3) Require ITL obtain a building permit for installation of hard surface; 4) Require installation of hard surface (asphalt or concrete) be complete by June 30, 2015; 5) If hard surface not complete by June 30, 2015, ITL agrees to cease operations on the site and remove all cargo containers and chassis; 6) Temporary fencing must be removed by June 30, 2015; and 7) This approval does not remove any stipulations previously placed on the Final Site Plan from the Planning Commission meeting held December 10, 2014 or additional stipulations placed with the Phasing Plan approved on April 8, 2014. YEA: Davis, Conus, M.O'Neill, and Gifford. NAY: Lucero and Withrow. Motion was approved, 4-2.

### **FINAL SITE PLAN – EXTENSION OF TIME**

A request for extension of time to complete installation of hard surface in regards to Final Site Plan, S-09-16-2013, located on the southwest corner of 191<sup>st</sup> Street and Waverly Road, containing approximately 20 acres, more or less, was considered. Applicant: Tom Hastings, TransSpec Leasing, Inc. Engineer: Dan Cook, Renaissance Infrastructure Consulting.

The City Administrator reviewed the project and site. She indicated the Final Site Plan was approved by the Planning Commission in October, 2013. She noted that after the approval, TSL submitted information regarding use of the existing buildings and further the applicant's decision on the outcome for same. The Planning Commission approved an amended final site plan in December 2013 with a stipulation that allowed for installation of hard surface by July 2014. A conditional use permit for cargo container storage was approved in January, 2014.

Ms. Linn reviewed the key items for the request, which includes: Land Disturbance Permit and Notice of Intent from the State; need to apply for building permit for construction of hard surface; require for completion of outstanding planning and zoning items prior to issuance of a building permit; and limitation of height of storage of containers to three (3) high and chassis to five (5) high.

Ms. Lucero stated she had concerns with the push back of time for this project.

Tom Hastings, applicant, stated the site at Waverly and 191<sup>st</sup> Street has had no economic benefit thus far. He indicated the spring rains, and problems with utilities with the moving of four of the five buildings, caused issues with ground saturation impacting the sub-grade, which caused the project to run three months behind. He noted the plan is to hard surface with concrete. He asked for the support of the Commissioners to extend the final site plan to August 15, 2015.

Motion by Withrow, seconded by M. O'Neill, to approve the **final request for extension of time for the Final Site Plan** with the following stipulations: 1) Limit the height of storage of containers to three (3) high and chassis to five (5) high; 2) Require completion of outstanding planning and zoning items (recording of final plat, filing of final site plan, etc.) prior to issuance of a building permit; 3) Require TSL obtain a building permit for installation of hard surface; 4) Require installation of hard surface (asphalt or concrete) be complete by August 15, 2015; 5) If hard surface not complete by August 15, 2015, TSL agrees to cease operations on the site and remove all cargo containers and chassis; and 6) This approval does not remove any stipulations previously placed on the Final Site Plan from the Planning Commission meeting held on October 22, 2013 or December 10, 2013. Motion was approved, 6-0.

### **FUTURE MEETING**

The next scheduled meeting is December 9, 2014.

### **ADJOURNMENT**

Motion by Conus, seconded by M. O'Neill, to adjourn. Motion was approved, 6-0.

The meeting adjourned at 10:10 p.m.

Sumbitted by:

Debra S. Gragg  
Recording Officer