

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
August 11, 2022
7:00 P.M.**

Call to Order

1. **Roll Call** _____ Roberts _____ Longanecker _____ Lewis _____ Beem
 _____ Stambaugh _____ Lebakken
2. **Welcome**
3. **Pledge of Allegiance**

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Approve Minutes from July 28, 2022 Regular City Council Meeting
5. Consider Resolution 08-11-22A Appointing Beth Linn as Zoning Administrator for the City of Edgerton

Motion: _____ Second: _____ Vote: _____

Regular Agenda

6. **Declaration.** At this time Council members may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.
7. **Public Comments.** The City of Edgerton encourages public participation in local governance issues. To facilitate an efficient and effective meeting, persons wishing to address the City Council must sign-up before the meeting begins. Speakers must provide their name and address for the record and are limited to three (3) minutes. The maximum time limit for all speakers will be thirty (30) minutes. Comments on personnel matters or matters pending before court/other outside tribunals are not permitted. Any comments are for informational purposes only. No action will be taken.

The Mayor may modify these provisions, as necessary. The Mayor may limit any unnecessary, off-topic, or redundant comments or presentations. Speakers should address their comments to City Council members only and should not speak to fellow audience members. City Council members will not engage in a dialogue or debate with speakers. Speakers and audience members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

Business Requiring Action

8. **CONSIDER ORDINANCE NO. 2113 ADOPTING THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE APPLICATION ZA2022-01 FOR THE REZONING OF APPROXIMATELY 80.4 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD FROM JOHNSON COUNTY "RUR" (RURAL DISTRICT) TO CITY OF EDGERTON "PUD" (PLANNED UNIT DEVELOPMENT) ZONING**

Motion: _____ Second: _____ Vote: _____

9. **CONSIDER ORDINANCE NO. 2114 ORDINANCE ADOPTING THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE THE PLANNED UNIT DEVELOPMENT (PUD) CONCEPTUAL PLAN FOR 80.4 ACRES LOCATED AT THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD, AMENDING THE OFFICIAL CITY ZONING MAP AND APPROVING THE PROPERTY FOR A PLANNED UNIT DEVELOPMENT**

Motion: _____ Second: _____ Vote: _____

10. **Report by the City Administrator**

- 2nd Quarter Financial Report

11. **Report by the Mayor**

12. **Future Meeting Reminders:**

- August 25th: City Council Meeting – 7:00PM
- September 8th: City Council Meeting – 7:00PM
- September 13th: Planning Commission Meeting – 7:00PM
- September 22nd: City Council Meeting – 7:00PM
- October 11th: Planning Commission Meeting – 7:00PM
- October 13th: City Council Meeting – 7:00PM
- October 27th: City Council Meeting – 7:00PM

13. **CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B)(2) FOR CONSULTATION WITH AN ATTORNEY DEEMED PRIVILEGED IN THE ATTORNEY-CLIENT RELATIONSHIP TO INCLUDE CITY ATTORNEY, CITY ADMINISTRATOR AND BOND COUNSEL FOR THE PURPOSES OF CONTRACT NEGOTIATIONS**

Motion: _____ Second: _____ Vote: _____

14. **Adjourn** Motion: _____ Second: _____ Vote: _____

EVENTS

August 13th: Totally Rad 80s Prom Murder Mystery
August 17th: Senior Lunch & BINGO
August 31st: Senior Trivia and Muffins
September 5th: Labor Day – City Offices Closed
September 10th: Edgerton Movie Night

City of Edgerton, Kansas
Minutes of City Council Regular Session
July 28, 2022

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on July 28, 2022. The meeting convened at 7:06 PM with Mayor Roberts presiding.

1. ROLL CALL

Clay Longanecker	present
Josh Lewis	present
Josh Beem	present
Josie Stambaugh	present via telephone
Deb Lebakken	present

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator, Beth Linn
- City Attorney, Lee Hendricks
- Planning and Zoning Coordinator/Deputy City Clerk, Chris Clinton
- Public Works Director, Dan Merkh
- Public Works Superintendent, Trey Whitaker
- Development Services Director, Katy Crow
- Accountant, Justin Vermillion
- Capital Improvement Project Manager, Brian Stanley
- Finance Director, Karen Kindle

2. WELCOME

3. PLEDGE OF ALLEGIANCE

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Approve Minutes from July 14, 2022 Regular City Council Meeting
5. Approve Agreement to Terminate Contract for Services for Construction of Wastewater Improvements and Transportation and Treatment of Wastewater in an Area Between the City of Edgerton, Kansas and Gardner, Kansas.
6. Approve Appointment of Bill Malloy to the Edgerton Planning Commission for a term ending in September 2024.

Councilmember Lebakken made motion to approve the consent agenda, seconded by Councilmember Longanecker. The items were approved, 5-0.

Regular Agenda

7. **Declaration.** At this time Councilmembers may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

There were no declarations made by the Councilmembers.

8. **Public Comments.** The City of Edgerton encourages public participation in local governance issues. To facility an efficient and effective meeting, persons wishing to address the City Council must sign-up before the meeting begins. Speakers must provide their name and address for the record and are limited to three (3) minutes. The maximum time limit for all speakers will be thirty (30) minutes. Comments on personnel matters or matters pending before court/other outside tribunals are not permitted. Any comments are for informational purposes only. No action will be taken. The Mayor may modify these provisions , as necessary. The Mayor may limit any unnecessary, off-topic, or redundant comments or presentations. Speakers should address their comments to City Councilmembers only and should not speak to fellow audience members. City Council members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

There were no public comments made at this time.

Business Requiring Action

9. **CONSIDER RESOLUTION NO. 07-28-22A AUTHORIZING THE ACQUISITION OF IMPROVEMENTS TO THE SEWERAGE SYSTEM OF THE CITY; AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF.**

Ms. Karen Kindle, Finance Director, approached the Council. She stated earlier this meeting the Council approved the agreement to terminate the contract for services for construction of wastewater improvements and transportation and treatment of wastewater between the City of Edgerton and the City of Gardner. The City of Edgerton will purchase all interests the City of Gardner has in the Cooperative Facilities as defined by the agreement including Gardner's contractual right to use the Cooperative Facilities and their right to utilize the specified percentage of capacity at the Cooperative Facilities. This purchase will terminate all responsibilities of the two (2) cities as described in the contract.

Ms. Kindle explained Resolution No. 07-28-22A authorizes the project, provides for the payment of the project costs, includes a description of the project and the cost of the project, and denotes how the project will be funded. The resolution indicates that the entire project cost will be funded with General Obligation (GO) Bonds. This allows the City maximum flexibility to pay some of the cost from other sources and only finance a portion of the project with GO Bonds. She stated City staff recommends financing the buyout payment to include an initial payment and then funding from GO Bonds with \$450,000 from the Sewer System Development Fund, \$450,000 from the Economic Development Fund, and \$3,600,000 from GO Bonds with a ten (10) year term, with annual debt service to be paid from the Logistics Park Kansas City (LPKC) Phase II Economic Development Fee. Ms. Kindle explained none of the buyout contract will be funded by the wastewater fund nor general wastewater utility customers or rates. She stated this is the first step in the GO Bond process.

Councilmember Longanecker requested clarification on the time frame shown in the provided material. Ms. Kindle replied the provided information is misprinted as the time for the bonds will be twenty (20) years since the requirement is twelve (12) or more years.

Mayor Roberts inquired if the City of Gardner approved of the project. Ms. Linn answered they have.

Councilmember Longanecker moved to approve Resolution No. 07-28-22A, Councilmember Lewis seconded the motion. Resolution No. 07-28-22A was approved, 5-0.

10. CONSIDER RESOLUTION NO. 07-28-22B AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION BONDS, SERIES 2022A, OF THE CITY OF EDGERTON, KANSAS.

Ms. Kindle spoke before the Council. She explained this resolution authorizes the offering for sale of the Series 2022A GO Bonds; authorizes the financial advisor and the bond counsel to prepare and issue a Notice of Bond Sale which describes the terms of the GO Bonds; directs and authorizes the City Clerk to publish the Notice of Bond Sale; and directs and authorizes City staff, the Financial Advisor, and the Bond Counsel, to prepare a Preliminary Official Statement related to the Bonds. The resolution also authorizes the Mayor, Finance Director, and/or other City officers to approve the form of the Preliminary Official Statement, which explains the bonds and the City; annually provide certain financial and operating data to comply with the Municipal Securities Rule Making Board continuous disclosure requirements; and execute other documents that may be necessary for the purchaser of the bonds to comply with Security and Exchange Commission rules. Ms. Kindle stated the resolution also authorizes the Mayor, Financial Director, and/or other City officers, the Financial Advisor and Bond Counsel, to take such other actions that may be necessary to carry out the sale of the bonds.

Ms. Kindle explained the sale of the bonds will be a competitive sale as required by Kansas statutes. The Preliminary Official Statement will be posted on September 1, 2022. A week later on September 8, 2022, the competitive bond auction and Council consideration of the Ordinance and/or Resolution authorizing the final terms of the Bonds will take place. The Final Official Statement, which includes the terms of the bonds from the auction, will be posted on September 15, 2022. On September 22, 2022, the Bonds will close, and payment will be issued to the City of Gardner.

Councilmember Longanecker moved to approve Resolution No. 07-28-22B, Councilmember Lebakken seconded the motion. Resolution No. 07-28-22B was approved, 5-0.

11. CONSIDER RESOLUTION NO. 07-28-22C AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2022A, OF THE CITY OF EDGERTON, KANSAS

Ms. Kindle addressed the Council. She stated the City issued temporary notes in 2019 to finance a portion of the 2019 Street Reconstruction Project. A portion of the principal that was due was paid off and the City renewed those notes for 2 more years in September of 2020 by issuing the Series 2020A Temporary Notes. When the 2020 notes were issued, the City added funding for the Homestead Lane and 200th Street Intersection Project. She said at this time, the principal portion related to the 2019 Street Reconstruction Project has been paid off and slightly more than half the principal remains for the Homestead Lane and 200th Street Intersection Project. The Series 2020A Temporary Notes mature on October 1, 2022.

Ms. Kindle explained the Homestead Lane and 200th Street Intersection Project is to be funded with revenue from the Homestead Lane Retail Tax Increment Financing (TIF) District. However, the revenue is received over time and revenue received thus far has not been sufficient to pay off the remaining principal for the project. The notes will need to be renewed. City staff has begun working with the City's financial advisor and the City's bond counsel to renew the notes for a term of 2 years. She said the sale will be negotiated like the sale of both the 2019 and 2020 Temporary Notes. The City's financial advisor will solicit quotes via a bank direct purchase Request for Qualification (RFQ) process, will analyze the quotes received and will recommend a bank for the City to approve.

Ms. Kindle said this resolution authorizes the offering for sale of the Series 2022A Notes and grants authority for the Mayor to execute a note purchase agreement with the recommended bank within certain parameters. In addition, the resolution authorizes the Mayor, City Administrator, City Clerk, the Finance Director, and other City official, Bond Counsel and the Financial Advisor, to take such other actions that may be necessary to carry out the sale of the Notes. She said on July 29, 2022, the Financial Advisor distributes the bank direct purchase RFQ. The proposals from the banks are due on August 12, 2022. On September 8, 2022, the Council adoption of the Ordinance and/or Resolution authorizing the final terms of the notes and the Note Purchase Agreement will be adopted. The City will close on the Notes on September 22, 2022. Redemption of the Series 2020A Temporary Notes will take place on October 1, 2022.

Councilmember Lewis moved to approve Resolution No. 07-28-22C, and Councilmember Longanecker seconded the motion. Resolution No. 07-28-22C was approved, 5-0.

12. CONSIDER ORDINANCE NO. 2112 AMENDING CHAPTER VIII, ARTICLE 7 OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

Ms. Katy Crow, Development Services Director, spoke before the Council. She stated as was noted during the recent Citizen Survey, code enforcement is high on the list of priorities for Edgerton residents. City staff continues to review Edgerton's Municipal Code so that it remains relevant and effective for the code enforcement process.

She explained Chapter VIII, Article 7, titled Minimum Housing Code, is of particular importance because it enables City staff to ensure properties comply with the International Code Council (ICC) International Residential Building Code (IRBC). Recently City staff has encountered housing in Edgerton where front stoops or porches are missing or decks that have pulled away from the residential structure. These dangerous structures and unsafe conditions represent a life safety hazard which can be corrected through the code enforcement process. However, it was recently noted that Chapter VIII, Article 7, Minimum Housing Code, did not contain the same procedures for due process as all other code infractions. Ms. Crow said it required a hearing before the Governing Body as opposed to judicial proceedings before the City of Edgerton Municipal Court. Revising sections 8-712 through 8-718 aligns this section with same procedures used in Chapter VIII, Articles 2 through 4 related to other code violations like health nuisances, inoperable vehicles and tall grass and weeds.

Ms. Crow stated while amending Article 7, City staff noted that other slight corrections and clarifications were needed as it had been twenty-six (26) years since this section was originally adopted. In addition to the language clarifications, Section 8-709(a)(4) was added as there is nothing in Edgerton's Municipal Code today requiring a resident to establish grass, ground cover or other erosion control measures so as to prevent eroding soil from flowing onto adjacent properties, onto sidewalks, and into rights-of-way within fourteen (14) days. The land disturbance code did not have regulations for smaller lots like residential lots.

Councilmember Longanecker inquired if this change will affect properties with or without an active building permit. Ms. Crow answered it will affect all properties, regardless of an active building permit.

Councilmember Lebakken asked about the thirty (30) day timeframe to repair noted violations. Ms. Crow replied if a violation of the minimum housing code is a life safety issue, the code allows up to 30 days for the violation to be abated. She explained the Code Enforcement Officer, Charlie Lydon, will work with residents as long as progress is being made. Councilmember Lebakken inquired what happens if people do not know where to go for help or need financial assistance is needed. Ms. Crow answered the City does not provide references for contractors and this code update is specifically to handle items such as decks falling off or other life safety issues that make a house potentially inhabitable. Mr. Lee Hendricks, City Attorney, added the code does still have the option of a public hearing, but that is the only solution currently. There is no 30-day time frame option, and this could make issues linger. Councilmember Lebakken stated a violation such as this could be a financial burden on a resident. Mayor Roberts said prior issues have been properties that are rentals that have not been maintained. Ms. Linn stated all violations have been on rental properties. Councilmember Beem asked the code update would be applied to all properties or just vacant houses, such as one on Martin Street. Ms. Crow answered all properties would need to be in compliance with this code.

Councilmember Stambaugh said there have been permits that have been denied issuance and implored City staff to work with residents to get items approved. She added there is one property owner who owns a lot of houses that would violate this code and there has been trouble getting the houses up to code. She claimed she knows of residents who have been denied permits and have had trouble obtaining permits in the past. Councilmember Stambaugh stated she applied to have her roof replaced on her house and was informed the City has a third party contracted to do the building inspections. She said the City has threatened to condemn properties and it should be easier to get the permits to make it easy to maintain properties. Ms. Crow replied that in her five (5) years with the City, she cannot recall a permit getting denied other than for cause as the submittal did not meet the building code. She explained City staff will provide the applicable building code and if the applicant does not want to meet them, then the permit cannot be approved. Ms. Linn said the building code provides outlines for City staff to follow and City staff cannot waive the requirements set by the building code, nor can City staff approve building permits missing certain items. She provided the example of the building code requiring stamped and sealed plans, City staff cannot override that to issue a building permit. Ms. Linn explained one of the Capital Improvement Projects is considering an updated suite of the building codes and

City staff is currently working on that project. She requested that if anyone interacts with City staff and had a permit denied without cause to contact herself or Mayor Roberts.

Mayor Roberts stated the City does not threaten to condemn the property. Mr. Hendricks explained there is a process to condemn a property that includes the passing of resolutions that deem a certain property unfit for occupancy as, per the code, there are aspects of the house that make it unfit for human habitation. He said forty-five (45) to sixty (60) days pass after a resolution before the property could be condemned. City staff has worked with property owners if they come to the hearings to explain why the property should not be condemned. He explained another resolution is approved setting a deadline for repairs to be done. Mr. Hendricks said he cannot remember one house being torn down due to being condemned. He added he would be happy to speak with someone who has been threatened with condemnation.

Councilmember Stambaugh stated tall grass and weeds is also mentioned in the code update and that is not the same as a deck falling off or other life safety issues. She inquired as to what happens if the resident does not repair the property. Ms. Crow answered Mr. Lydon and other City staff will work with the property owner and as long as adequate progress is being made, extensions are granted. She explained there are monthly inspections on some court cases.

Councilmember Longanecker provided the example of the house on the 2nd Street that was going to be torn down. A new property owner came forward, and City staff worked with them to rehab the house. Ms. Crow agreed and said it was in the process of being condemned but City staff is still working with new owners to continue progress on the house. She said City staff is aware of the house on Martin Street, which was just purchased by a new owner and the City is working with that new owner to resolve the current violations on the property. Councilmember Longanecker said City staff works with people and does a great job to help keep projects moving forward. Ms. Crow stated the house on 2nd Street was an eighteen (18) month process to get it to the point it is at today.

Councilmember Lewis stated the permitting process of working with City staff and the third party contracted services for building inspections and plan reviews for commercial and residential projects is rather simple. He said neither he nor the contractors ever had any issues with the process. It was being completed quickly and professionally. He said there should be no issues with the process of obtaining a permit. Ms. Crow requested residents contact her or Ms. Linn if there are any issues with obtaining a building permit.

Mayor Roberts said there are programs aimed at helping people with property maintenance before items deteriorate and safety concerns come up. He has seen neighbors helping each other in Edgerton to be sure properties are maintained. Councilmember Lebakken stated property owners may not know about those programs. Mayor Roberts replied if a property owner does have concerns about their property they just need to reach out and ask. There are nonprofit programs and County programs the City has donated to in the past.

Councilmember Lewis moved to approve Ordinance No. 2112, Councilmember Longanecker seconded the motion. Ordinance No. 2112 was approved, 5-0.

13. Report by the City Administrator

- 2nd Quarter Community Development Report

Ms. Crow addressed the Council. She stated twenty-nine (29) building permits were issued in the second quarter. Twenty-one (21) of those permits were residential, and the remaining eight (8) were commercial building permits. Those building permits totaled to a valuation of \$4,744,655 of improvements made. There were thirty-two (32) residential inspections and twenty-nine (29) commercial inspections performed last quarter. Four (4) Temporary Certificates of Occupancy and 2 Certificates of Occupancy were approved by those inspections list the projects. One of those Certificates of Occupancy was for a new warehouse.

Ms. Crow explained work continues on the Comprehensive Plan. The first meeting of the Steering Committee was held in May and the second one is scheduled for late July. Confluence completed a windshield survey of the existing housing stock in Edgerton. She said the Confluence team was pleased to announce that a vast majority of properties look good and there are a lot of good roofs in the City. The final results of that survey have not been released yet. The final item for the Planning Department is that there was an update to the Development Calendar that now allows City staff to publish the Planning Commission packet 1 week prior to the meeting.

Ms. Crow said animal control spends a lot of time chasing loose dogs as there were forty (40) of them last quarter. Thirteen (13) were initiated by Mr. Lydon as he saw them and the remaining twenty-seven (27) were called into City Hall. She explained these numbers are only loose dogs that the City was involved in. This does not include any the Johnson County Sheriff's office aided in, or posts to social media as those are not monitored by City staff. She said it is important for residents to call the City if they see a loose dog so it can be returned home quickly and safely.

Ms. Crow stated there were seventy-one (71) violation level cases in the second quarter. Sixty-two percent (62%) were initiated by City staff and the other thirty-eight percent (38%) were resident-initiated. 71 cases could have been in court, but due to the diligence by City staff and the ability of Mr. Lydon to work with residents, only 4 of those cases ended up in court. Councilmember Longanecker pointed out that is another great example of how the City works with the residents.

- Draft Records Retention Schedule

Ms. Linn stated Ms. Alex Clower, City Clerk, drafted a retention schedule for City documents that has been distributed for the Council Members to review. Approval of the retention schedule will be on a future agenda.

14. WALK ON ITEM: Consider Encroachment Agreement with KPC Pipeline LLC for Glendell Acres Park Renovation Project

Mr. Dan Merkh, Public Works Director, addressed the Council. He stated in October 2021, City staff began discussion with KPC Pipeline LLC (KPC) regarding the proposed project for Glendell Acres Park Renovation Project. The project proposes a sidewalk extension to

Edgewood Drive, in doing so, the sidewalk needs to encroach on the easement KPC has for the gas lines that run north to south through town. Mr. Merkh provided a map of the gas line to the Council. He stated on July 27, 2022, City staff received notification from KPC that an agreement has been reached to allow the encroachment as long as it is equal to or greater than a specified distance to be measured horizontally. The City Attorney has reviewed the agreement and suggested revisions are being discussed with KPC. City staff is recommending authorizing the Mayor to sign the agreement after final approval from the City Attorney.

Mayor Roberts stated this agreement has been in the works for a long time with many discussions spread out over months. He is excited to be this point and wants it to move forward. He said he is concerned that if this agreement is not reached then it could delay the project much longer.

Councilmember Longanecker moved to allow the Mayor to sign the agreement with KPC when approved by the City Attorney, Councilmember Lebakken seconded the motion. Approval for the Mayor to sign the agreement was granted, 5-0.

15. Report by the Mayor

Mayor Roberts requested Mr. Hendricks discuss a couple of items.

- Mr. Hendricks stated the first item relates to Kansas State Statute 75-4317 and 75-4317(a). During the previous Council meeting, there was a discussion by Councilmember Stambaugh regarding a private Facebook page. He said at that time that his legal recommendation was that the discussion was on a private Facebook page, discussing private matters and thus it is private, and not a City matter. He expressed his concern with social media and the use of social media by council members. He was dismayed that the day after he discussed the dangers of Facebook to elected officials in a Council meeting, he was notified that there were a series of comments by certain councilmembers and the Mayor on a Facebook post after that very meeting. He received an email from Ms. Linn asking if it was a violation of the Kansas Open Meeting Act (KOMA). He said the Council needs to understand how cities can get in trouble by violating KOMA and while this specific situation was not a violation, it is very close to being one. If the communication can be associated with any City business, it can be a violation of KOMA.

Mr. Hendricks read Kansas State Statute 75-4317(a):

A public meeting is defined as used in the open meetings act, "meeting" means any gathering or assembly in person or through the use of a telephone or any other medium for interactive communication by a majority of the membership of a public body or agency subject to this act for the purpose of discussing the business or affairs of the public body or agency.

He said there are a few aspects of that statute that needs to be broken down. The first part is the majority of the body. He explained for this Council, a quorum is 3 as it is the majority of the voting members, Mayor Roberts is not a voting member and does not

count toward a quorum. The discussion in question is between 3 councilmembers, and therefore, is a quorum and meets the first step of a violation.

The next part of the definition is the discussion of business by a public body and interactive communication in series. He explained interactive communication for the purposes of KOMA requires a mutual or reciprocal exchange to reach an agreement. Mr. Hendricks used the example of sending emails to reach a consensus on an issue. The discussion on the Facebook post was not an attempt to reach an agreement. In his opinion, this fails the second step to be a violation. He said it is possible to conclude 2 of the comments were related, but those comments were not regarding City business. Since he did not see a private Facebook page as a City matter, this discussion was not a City matter. In Mr. Hendricks' opinion, the discussion on the Facebook post fails this criterion and is not a violation of KOMA.

Mr. Hendricks stated he received an email after he stressed his concern on this very topic. He said the City dodged a bullet and that the councilmembers are not in KOMA training at this moment. He explained his representation of the City ends when the meeting is adjourned. He understands the desire to inform and explain matters to the public, but when other councilmembers get involved in a discussion, it is best to discontinue any engagement. The City came close to a KOMA violation. Mr. Hendricks said he typically does a KOMA and Kansas Open Records Act (KORA) training and that has not been completed with the current sitting Council, but it is important for the Council to understand the statute.

Councilmember Stambaugh said the Councilmembers are supposed to represent the City in their professional and personal lives as representative of the public and they are above reproach. She said Councilmember Lebakken and Councilmember Beem were both given cease and desist orders and they both posted on the page in question. She stated Mayor Roberts said it is best to stay off Facebook, but he is on there as well. Regardless as to whoever and whenever they post, it reflects badly on the City as it is now associated with the City. She said there is ongoing investigation with the Sheriff's office to figure out who is responsible for the page. She stated only time will tell if it is a City matter or not. Mr. Hendricks stated he can only speak on if the discussion held last week was a KOMA violation or not. He does not think it was a good idea to comment on any Facebook posts involving that number of councilmembers, and he cannot address private cease and desist orders as he represents the City, not individuals in these circumstances.

Councilmember Stambaugh that whoever is running the page needs to grow up and represent the City best. Mayor Roberts agreed that all of the councilmembers need to represent the City best. That includes not going to the Johnson County Board of Commissioners meeting and blaming other councilmembers for the page.

Councilmember Stambaugh stated Mayor Roberts is misrepresenting what she said. She explained Councilmembers Lebakken and Beem are engaging with the page, and she knows Councilmember Lebakken is using the alias of Anne Stewart to post on the page. Mayor Roberts stated he sees no proof and would like the Councilmembers to be professional even in their personal lives on Facebook. He said he is stating the facts and

stated Councilmember Stambaugh has made slanderous comments that have no facts behind them.

Councilmember Stambaugh stated what she does on her personal time is none of the City's business. Mayor Roberts agreed it is not any of the City's business. Mr. Hendricks agreed as well. Councilmember Lewis inquired as if that was the reason for this discussion. The discussion was to determine if the page and associated posts are City business or not. Mr. Hendricks stated that is correct, and none of it is a City matter.

- Mr. Hendricks stated there has been discussion at Council meetings and by the public regarding an annexation that was being challenged in court. He said not all of the sitting Council members were elected at the time of the annexation in question. He explained there are 2 primary procedures for land to be annexed into a City. The first procedure is done unilaterally when the City initiates the annexation. The other procedure is when the property owner submits an application for annexation by consent.

Mr. Hendricks provided copies of Kansas State Statute 12-520 which outlines the requirements for both unilateral and consent annexation. The first six (6) subsections of the statute are regarding unilateral annexation. It outlines how a City could annex an area if it so chooses to. Mr. Hendricks stated that during his time representing the City the favored approach of the Mayor, Council, and City staff has never been to annex unilaterally. The City has not pushed for annexation when an owner did not consent to that action. Mr. Hendricks explained there is a sixteen (16) step checklist of items and is very involved and labor intensive for the City under a unilateral annexation. A consent annexation is very straight forward. There is no notice that needs to be published or provided and there is no hearing. It is the choice of the property owner to request the annexation and the Council considers an ordinance to approve the annexation.

Mr. Hendricks stated that one point that keeps being discussed is claims of a narrow corridor approach to a consent annexation in Edgerton. Mr. Hendricks stated this language in the statute stems from the ruling in a case called the Board of Sumner County versus the City of Mulvane, Kansas. The City of Mulvane, through a consent annexation, annexed a 100-foot-wide strip of land five (5) miles long to another property the City wanted to annex. The courts ruled that Sumner County did not have legal standing for filing the suit. After that decision, the State legislators added the point. Mr. Hendricks read the statute requirement:

No city may utilize and provision of this section to annex a narrow corridor of land to gain access to noncontiguous tracts of land. The corridor of land must have a tangible value and purpose other than for enhancing future annexation of land by the city.

Mr. Hendricks stated there are 3 elements of this point. Those elements are the definition of a narrow corridor of land, the tangible value of the land, and a purpose other than enhancing future annexation. He explained neither the courts, nor the legislature have provided a formal opinion on what a narrow corridor of land is. The 100-foot-wide strip of land 5 miles long would seem to qualify as a narrow corridor of land, even though the Court did not discuss the issue. A map showing the annexed land

involved in the Edgerton court case was shown. He explained the tract of land does gets skinner as the parcel goes east. He cannot give a legal answer at this time, but it is his belief that this doesn't come close to being similar to the narrow corridor involved in the City of Mulvane case.

The second point is the land must have tangible value. He stated he does not know what the tangible value of a 100-foot strip of land would have besides as possible right-of-way. The property annexed into the City of Edgerton, however, has been assessed by Johnson County has an appraised value of \$456,980. It has significant tangible value and, in his mind, fails that second requirement of the statute.

The final point of the requirement is the reason for the annexation has to have a purpose of other than for enhancing future annexations of land by the city. Mr. Hendricks stated that it could be argued that any annexation enhances the chances of future annexations as it expands the City. The Sumner County case was filed because the City of Mulvane explicitly used the annexation to enhance the possibility for annexation. He sees that the Edgerton annexation fails on all three counts of this part of the statute. He does not see any comparison between this annexation and that done by the City of Mulvane that triggered this requirement. He knows it is confusing and those buzz words are used by those in the public. He wanted to share the information so councilmembers could answer those questions in the future.

Mayor Roberts inquired if an illegal annexation would be a road right-of-way only. Mr. Hendricks agreed as it would be more consistent with the 100-foot strip of land. He explained that is might look like a gap on the map for the road, but the road does not stop the city limits. Mayor Roberts used an example and stated if 207th Street was annexed just to get another property to abut City Limits, then the annexation would be a bad idea. Mr. Hendricks agreed. Councilmember Lewis asked how the parcel that was annexed into Edgerton ended up that shape. Ms. Linn answered that is how the property owner decided to sell and divide a larger parcel of land. Mr. Hendricks added the seller retained some of the property for another use. Mayor Roberts said it is important for the facts to be shared and informed the Council to contact Mr. Hendricks with any additional questions.

16. Future Meeting Reminders:

- August 9th: Planning Commission Meeting – 7:00PM
- August 11th: City Council Meeting – 7:00PM
- August 25th: City Council Meeting – 7:00PM
- September 8th: City Council Meeting – 7:00PM
- September 13th: Board of Zoning Appeals – 6:15PM Beth said correction is 7:45.
- September 13th: Planning Commission Meeting – 7:00PM
- September 22nd: City Council Meeting – 7:00PM

17. Adjourn

Councilmember Longanecker moved to adjourn the meeting. Councilmember Lewis seconded the motion. The meeting was adjourned at 8:12 PM, 5-0.



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Edgerton, KS 66021
P: 913.893.6231
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City Council Action Item

Council Meeting Date: August 11, 2022

Department: Community Development

Agenda Item: Consider Resolution 08-11-22A Appointing Beth Linn as Zoning Administrator.

Background/Description of Item:

Background/Description of Item:

Article 8, Section 8.7 of the Edgerton Unified Development Code (UDC) states that the Governing Body shall appoint a Zoning Administrator to administer the UDC.

Previously, City Council appointed Katy Crow as Zoning Administrator. Ms. Crow will be leaving the City of Edgerton on August 31, 2022 and staff would recommend appointment of Ms. Linn as the Zoning Administrator. Said appointment to remain in effect until otherwise resolved by the Governing Body.

City Attorney has reviewed and approved the draft resolution.

Related Ordinance(s) or Statue(s): Edgerton Unified Development Code, Article 8, Section 8.7

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Resolution 08-11-22A Appointing Beth Linn as Zoning Administrator.

Enclosed: Resolution 08-11-22A

Prepared by: Katy Crow, Development Services Director

RESOLUTION NO. 08-11-22A

**A RESOLUTION APPOINTING BETH LINN AS ZONING ADMINISTRATOR
FOR THE CITY OF EDGERTON**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON,
KANSAS:**

The Governing Body of the City of Edgerton, Kansas, hereby appoints City Administrator Beth Linn as Zoning Administrator pursuant to Section 8.7 of Article 8 of the Edgerton, Kansas Unified Development Code, said appointment to remain in effect until otherwise resolved by the Governing Body.

ADOPTED AND APPROVED by the Governing Body of the City of Edgerton, Kansas, this 11th day of August, 2022.

Donald Roberts, Mayor

ATTEST:

Christopher Clinton, Deputy City Clerk

APPROVED AS TO FORM:

Lee Hendricks, City Attorney

City Council Action Item

Council Meeting Date: August 11, 2022

Department: Community Development

Agenda Item: Consider Ordinance No. 2113 Adopting the Recommendation of the Edgerton Planning Commission to Approve Application ZA2022-01 for the Rezoning of Approximately 80.4 Acres of Land Located at the Southwest Corner of 207th Street/Braun Street and 8th Street/Edgerton Road in Edgerton, Kansas From Johnson County "RUR" (Rural District) Zoning to City of Edgerton "PUD" (Planned Unit Development) Zoning.

Background/Description of Item: The City of Edgerton has received rezoning Application ZA2022-01 from Jesse Fulcher, applicant representative for the owners, Dennis L. Dwyer, Vickie J. Dwyer, David L. Dwyer and Kendra L. Dwyer, and developer Rausch Coleman Homes requesting the rezoning of a 80.4 acre parcel located southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road in Edgerton, Kansas from Johnson County "RUR" zoning to City of Edgerton "PUD" Planned Unit Development zoning.

The parcel was annexed into the City of Edgerton on April 14, 2022. The current zoning designation of RUR is considered a holding designation and thus an appropriate zoning designation is required under the City of Edgerton Unified Development Code. This request is to rezone the parcel to PUD Planned Unit Development (PUD) with the intent of developing a 275 single family residential home development (Conceptual Plan Application PUD2022-01).

Staff reviewed this rezoning application with respect to the Edgerton Comprehensive Plan, the Edgerton Unified Development Code Zoning and Subdivision Regulations, and the laws of the State of Kansas, in particular the "Golden Criteria" as established by the Supreme Court of Kansas in 1978.

The Planning Commission held a Public Hearing on July 12, 2022 regarding this rezoning request and voted 3-0 to recommend approval of Application ZA2022-01 subject to the following stipulations:

1. All infrastructure requirements of the City are met.
2. All requirements of the City for a PUD are met.

Copies of the staff report and draft minutes are included with this packet. Staff received no further public comment for this application following Planning Commission action on July 12, 2022.

The City Attorney has prepared the enclosed draft ordinance approving the recommendation of the Planning Commission based on the Planning Commission staff report.

Related Ordinance(s) or Statue(s): K.S.A. 12-715b, K.S.A. 12-741, et. Seq. to K.S.A. 12-771 – Establishment of the Unified Development Code; 12-757 – Zoning Amendments

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approval of Ordinance No. 2113 Adopting the Recommendation of the Edgerton Planning Commission to Approve Application ZA2022-01 for the Rezoning of Approximately 80.4 Acres of Land Located at the Southwest Corner of 207th Street/Braun Street and 8th Street/Edgerton Road in Edgerton, Kansas From Johnson County "RUR" (Rural District) Zoning to City of Edgerton "PUD" (Planned Unit Development) Zoning.

Enclosed:

- Draft Ordinance No. 2113
- Staff Report from July 12, 2022 Planning Commission Meeting including Application ZA2022-01
- Draft minutes from the July 12, 2022 Planning Commission Meeting

Prepared by: Katy Crow, Development Services Director

ORDINANCE NO. 2113

AN ORDINANCE ADOPTING THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE APPLICATION ZA2022-01 FOR THE REZONING OF APPROXIMATELY 80.4 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD, FROM JOHNSON COUNTY "RUR" (RURAL DISTRICT) TO CITY OF EDGERTON "PUD" (PLANNED UNIT DEVELOPMENT) ZONING

WHEREAS, the Planning Commission of the City of Edgerton, Kansas received a request from Jesse Fulcher, applicant representative for the owners, Dennis L. Dwyer, Vickie J. Dwyer, David L. Dwyer and Kendra L. Dwyer, and developer Rausch Coleman Homes, of a parcel of land totaling approximately 80.4 acres, generally located at the southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road, to rezone that property from Johnson County "RUR" (Rural District) to City of Edgerton "PUD" (Planned Unit Development); and

WHEREAS, following a public hearing in front of the Planning Commission on July 12, 2022, the Planning Commission has recommended that the rezoning request for that property – from Johnson County "RUR" (Rural District) to City of Edgerton "PUD" (Planned Unit Development) -- be approved subject to certain conditions; and

WHEREAS, all required newspaper and mailing notifications were performed.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

Section 1. That the following legally described property generally located at the southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road, is hereby rezoned from Johnson County "RUR" (Rural District) to City of Edgerton "PUD" (Planned Unit Development), and that City Staff is hereby directed to reflect said rezoning in the City's Official Zoning map and other City records:

All that part of the Northeast Quarter of Section 13, Township 15, Range 21, Johnson County, Kansas, more particularly described as follows:

Beginning at a point on the East line of said Northeast $\frac{1}{4}$ of said Section 13 and 376.40 feet South of the Northeast corner thereof; thence West a distance of 35.00 feet; thence South parallel to the East line of said Northeast $\frac{1}{4}$ a distance of 200 feet; thence East a distance of 35.00 feet; thence North along the East line of said Northeast $\frac{1}{4}$ a distance of 200.00 feet to the point of beginning, all subject to that part thereof dedicated for existing public road right-of-way containing 0.161 acres, including 0.092 acres, more or less, of existing public road right-of-way and 0.069 acres, more or less, of new right-of-way.

Section 2. The above rezoning is expressly conditioned on the following:

- a) All infrastructure requirements of the City shall be met.
- b) All requirements of the City for a PUD are met.

Section 3. That the Governing Body, in making its decision on the rezoning, based its decision on City Staff's comments and recommendations as they relate to the Golden criteria and otherwise, which are attached hereto. The Governing Body also based its decision on the following criteria:

- a) The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space.
- b) Compatibility of the proposed zoning and uses permitted therein with the zoning and uses of nearby properties.
- c) The extent to which the zoning amendment may detrimentally affect nearby property has been addressed.
- d) The relative gain (if any) to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such denial.
- e) Consistency with the Comprehensive Plan, Utilities and Facilities Plans, Capital Improvement Plan, Area Plans, ordinances, policies, and applicable City Code of the City of Edgerton.

Section 4. This ordinance shall take effect from and after its publication once in the official city newspaper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF THE CITY OF EDGERTON, KANSAS ON THE 11th DAY OF AUGUST, 2022.

CITY OF EDGERTON, KANSAS

By: _____
Donald Roberts, Mayor

ATTEST:

Christopher Clinton, Deputy City Clerk

APPROVED AS TO FORM:

Lee Hendricks, City Attorney

TIMBER CREEK SUBDIVISION

Application ZA2022-01

Southwest Corner of 207th Street/Braun Street and 8th Street/Edgerton Road

QUICK FACTS

PROJECT SUMMARY AND REQUESTED APPROVALS

The Applicant is requesting approval to rezone a parcel of land located at the southwest corner of 207th/Braun Street and 8th Street/Edgerton Road from Johnson County RUR to PUD.

**A Public Hearing is
required.**

Owner and Applicant

Dennis and David Dwyer, Property Owners. Jesse Fulcher, agent for Rausch Coleman Homes, Developer and Applicant

Zoning and Land Use

Currently RUR (Johnson County Rural) with no existing improvements

Legal Description

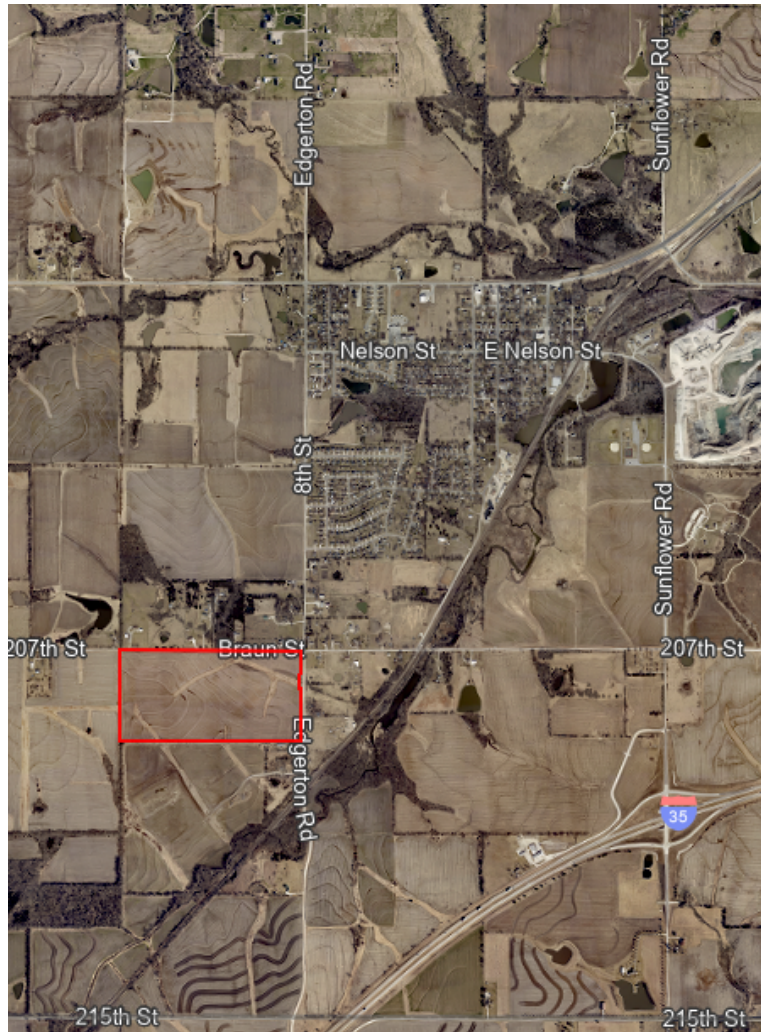
The north ½ of the NE ¼ of Section 13, Township 15 South, Range 21 East, in the City of Edgerton, Johnson County, Kansas

Parcel Size

80.4 acres

Staff Report Prepared by

Chris Clinton



BACKGROUND

Subject Site

The parcel is located within the Bull Creek watershed and was annexed into the City of Edgerton on April 14, 2022.

Utilities and service providers:

- a. Water Service – City of Edgerton.
- b. Sanitary Sewer - City of Edgerton.
- c. Electrical Service - Evergy.
- d. Gas Service – Kansas Gas Service.
- e. Police protection is provided by the City of Edgerton through the Johnson County Sheriff's Office.
- f. Fire protection is provided by Johnson County Fire District #1.

Site History and Past Approvals

The subject parcel has not had any applications submitted to the City for approval prior to this rezoning request. The property has been undeveloped and used for agricultural purposes since 2006 per Johnson County AIMS. At the time of annexation on April 14, 2022, the parcel contained a Johnson County Rural (RUR) zoning designation. The property retains that zoning designation until it is rezoned to a City of Edgerton zoning designation.

Proposed Use

The applicant is requesting to rezone the parcel from Johnson County RUR to City of Edgerton Planned Unit Development (PUD) for development as a single family residential PUD. Article 6 of the Edgerton Unified Development Code (UDC) states that the purpose of the PUD is to encourage and allow a more creative and imaginative design of land developments than is possible under district zoning regulations. PUDs are intended to afford the developer substantial flexibility when planning and designing a development proposal.

This PUD will be for single family residences. In today's ever-changing market, the PUD is an important tool to help developers and home builders design projects that balance the rising fixed costs (such as extension of road and utility infrastructure) and rising costs of building materials with the changing preferences of the home buyer for lower yard maintenance or more close-knit, walkable neighborhoods which include amenities.

In this development, the applicant is proposing 275 total residential lots broken out in four (4) phases. Phase I is to be comprised of eighty-one (81) lots. The second phase will have seventy (70) lots. Phase III will contain sixty-one (61) lots. The final phase will have (63) lots.

The acreage is divided as follows:

- Residential lots - 48.2 acres
- Green Space - 9.7 acres
- Storm Drainage - 3.4 acres
- Dedicated right of way - 19.1 acres
- Total - 80.4 acres

The developer will be presenting the requisite PUD Concept Plan Application (PUD2022-01), at the July 12, 2022 Planning Commission meeting.

Project Timeline

- Application submitted to the City: May 27, 2022
- Public Hearing Notice Published: June 22, 2022
- Public Hearing Notices Mailed: June 22, 2022 (sent to 44 properties)

REZONING REVIEW

Figure 1 below shows the current zoning of the neighboring properties:

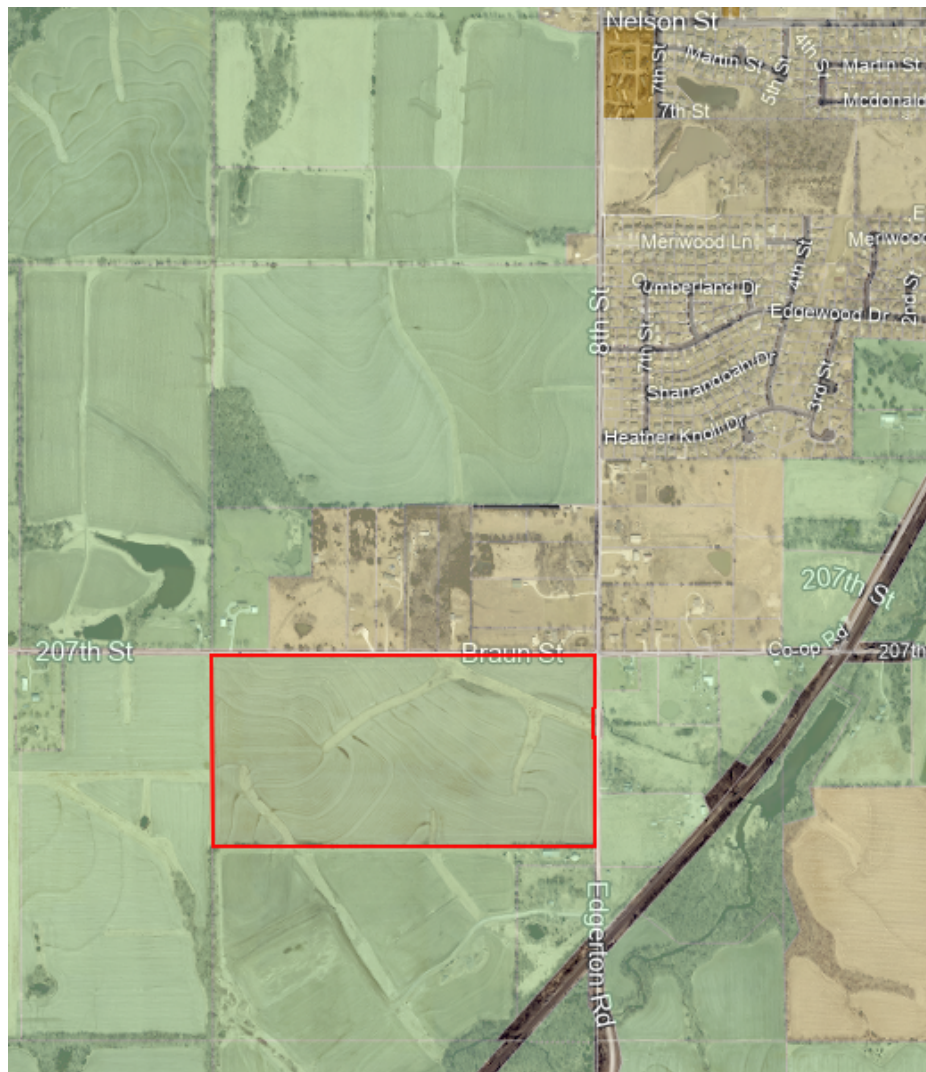


Figure 1 – Subject Parcel Outlined in Red

Green: Johnson County RUR
Beige: City of Edgerton Single-Family Residential (R-1)
Gold: City of Edgerton Manufactured Home Park (MHP)

Staff has reviewed the rezoning application with respect to the Edgerton UDC, the laws of Kansas, and the “Golden Criteria” as established by the Supreme Court of Kansas in 1978. Review comments are listed below.

1. **Need for the Proposed Change** – When this parcel was annexed into the City of Edgerton, it contained a Johnson County RUR zoning designation as assigned by the County. That zoning designation allows for agricultural or residential uses and it is considered a holding designation post annexation. Prior to any development occurring on the parcel, rezoning to a City of Edgerton zoning designation is required. The applicant has requested that this parcel be rezoned to PUD to allow for the future single-family Planned Unit Development.
2. **Magnitude of the Change** – This parcel is located near other single-family residences; therefore, the magnitude of change would not be considered unusual for this area.
3. **Whether or not the change will bring harm to established property rights** - The subject property is located near and adjacent to other residential uses. While the proposed development does have a higher density than those of surrounding residential areas, the development will not change any property rights to the neighboring properties.
4. **Effective use of Land** – The applicant has indicated the zoning designation of PUD will be used to develop the parcel for single-family residential. This would be an effective use of the land as houses are in high demand throughout Johnson County. This development could help bring other residential development to the City along with the amenities that support a residential development.
5. **The extent to which there is a need in the community for the uses allowed in the proposed zoning** – A 2021 Edgerton housing study indicated that there is a need for all types of housing in Edgerton. One strategic objective of the housing study was to provide a range of housing environments by offering moderately-priced housing types which meet the housing need for households that are at different points in their life. This study also determined that Edgerton’s average annual construction need for single family homes is 21 units per year with a cumulative total of 205 by the year 2030. A critical component for housing in the Edgerton community is ‘move-up’ housing – new housing that will allow existing residents to move into housing that better fits their needs while allowing them to continue living in the community they have become an integral part of. Rezoning this parcel to PUD for residential development will help to fulfill some of Edgerton’s housing need.
6. **The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space** – As shown in Figure 1 of this Staff Report, the subject parcel is near other parcels which currently contain a residential zoning designation. Directly north across 207th/Braun Street are existing single-family residences. Parcels abutting the west and south boundaries of the subject parcel are currently zoned Johnson County RUR. The parcel across 8th Street/Edgerton Road is also an RUR zoned parcel. While the residential density in RUR zoning designations is lower than that of a traditional residential subdivisions, residential lots with an R-1 zoning designation are currently located roughly a quarter of a mile to the north of this parcel. The companion PUD Conceptual Plan (PUD2022-01) provided by the applicant represents the first new home subdivision development in Edgerton in approximately 20 years. The applicant’s design includes green space, a walking trail, a neighborhood pocket park and sidewalk

on one side of each street. The proposed dwelling units are diverse in floor plan and represent a variety of housing types.

7. **Compatibility of the proposed zoning and uses permitted therein with the zoning and uses of nearby properties** – As noted in #6 above, the proposed zoning is compatible with the existing zoning of neighboring and nearby parcels. The companion Conceptual Plan submitted by the applicant (PUD2022-01) is for single-family residential which is a permitted use adjacent to other residential uses. The proposed zoning and land use is consistent with the City's Future Land Use Map.
8. **Suitability of the uses to which the property has been restricted under its existing zoning** – When a parcel is annexed into the city, it retains its existing zoning designation until it goes through the rezoning process and receives an Edgerton zoning designation. The existing Johnson County RUR zoning of the applicant property is considered a holding designation until this process occurs. Johnson County RUR zoning is primarily for agricultural and low-density residential use. The current zoning designation, Johnson County RUR, does not exist within Edgerton, and as such, a rezoning must occur before any development by the applicant would be allowed.
9. **Length of time the subject property has remained vacant under the current zoning designation** - Based upon available aerial photography, the property has been used for agricultural purposes in unincorporated Johnson County dating back to at least 2006.
10. **The extent to which the zoning amendment may detrimentally affect nearby property** - This parcel is located near several parcels which today contain a City of Edgerton R-1 zoning designation. The UDC requires that uses within the proposed PUD be of a type, and be appropriately located, so as to exercise no undue detrimental influence upon surrounding properties.
11. **Consideration of rezoning applications requesting Planned Development Districts (PUD) for multifamily and non-residential uses should include architectural style, building materials, height, structural mass, siting, and lot coverage** – This is not a request for multifamily or non-residential PUD uses.
12. **The availability and adequacy of required utilities and services to serve the uses allowed in the proposed zoning. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services** – Water, electric, and gas utilities are located in the right-of-way adjacent to this property or across 8th Street/Edgerton Road. The sanitary sewer connection will come from the east and will connect to the Sunflower Benefit District wastewater infrastructure. Extension of the utilities into the site will need to take place as the PUD is developed.
13. **The extent to which the uses allowed in the proposed zoning would adversely affect the capacity or safety of that portion of the road network influenced by the uses, or present parking problems in the vicinity of the property** – Substantial construction has been completed on the grade separation along 207th Street/Braun Street to allow traffic to flow uninterrupted over the BNSF train tracks located east of this parcel. While traffic will increase as development occurs, the Conceptual Plan application process for PUDs requires the submittal of a traffic study for the area that will be reviewed by the City Engineer to determine what improvements are needed to the adjacent road network and the timing of those improvements. Additionally, the applicant has indicated that the development will have a Homeowners Association (HOA) which will have restrictions and covenants regarding on street parking.

14. **The environmental impacts that the uses allowed in the proposed zoning would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm** - The City will follow National Pollutant Discharge Elimination System (NPDES) guidelines and stormwater management requirements which require any application to address runoff and water pollution mitigation measures as part of the development of the property. Any construction that occurs on site will be required to get a NPDES permit from the State of Kansas and a land disturbance permit from the City. Those permits require a stormwater pollution prevention plan (SWPPP) that is reviewed by the City and the State. A full stormwater study of the site is also required and will be reviewed by the City Engineer prior to the issuance of a Land Disturbance Permit.
15. **The economic impact on the community from the uses allowed in the proposed zoning** – The proposed used for this rezoning request is a PUD with approximately 275 single-family residences. The applicant has included an assumption that a single family home valued at \$275,000 assessed at 11.5% and a mill levy of 146.180 will generate approximately \$4,600 in annual property taxes, with \$920 being distributed to the City of Edgerton and \$2,116 allocated to USD 231 Gardner Edgerton. The increase in rooftops could also drive further commercial growth and development which will also greatly benefit the community.
16. **The relative gain (if any) to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such denial** - There would be little relative gain, if any, to the public health, safety, and welfare from the denial of these zoning applications.
17. **Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton** - The Comprehensive Plan for the City of Edgerton shows this area as appropriate for low density residential which includes traditional single-family residential. The requested rezoning is compatible with the spirit and intent of future development outlined in the Comprehensive Plan and Future Land Use Map.
18. **The recommendation of professional staff** - See Recommendation below.

NOTICE OF CITY CODES AND PERMITS

The Applicant is subject to all applicable City codes – whether specifically stated in this report or not – including, but not limited to, Zoning, Buildings and Construction, Subdivisions, and Sign Code. The Applicant is also subject to all applicable local, State, and Federal laws.

Various permits may be required in order to complete this project. Please contact the Building Codes Division of the Community Development Department for more information about City permits. The project may also be subject to obtaining permits and/or approvals from other local, County, State, or Federal agencies.

DOCUMENTS INCLUDED IN PACKET

Sheet #	Title	Date on Document
Application	Application for ZA2022-01	05/27/2022
1	Future Land Use Map	03/10/2011

STAFF RECOMMENDATION

City Staff recommends approval of Rezoning **Application ZA2022-01** for *Timber Creek Subdivision*, subject to the following stipulations:

1. All infrastructure requirements of the City are met.
2. All requirements of the City for a PUD are met.

Note: For Application ZA2022-01 the Planning Commission will be recommending either approval or denial of the application to the Governing Body. If the Planning Commission recommends approval, the Application will be presented to the Governing Body on August 11, 2022.

LOCATION OR ADDRESS OF SUBJECT PROPERTY: SW Corner of Edgerton Road and W Braun StPURPOSE FOR REZONING: Development for single family housing.REQUESTED REZONING CHANGE: FROM RUR TO PUD
(Current Zoning) (Proposed Zoning)LEGAL DESCRIPTION: See attachedCURRENT LAND USE: AgPROPERTY OWNER'S NAME(S): Dennis L Dwyer & Vickie J Dwyer - David L Dwyer & Kendra L Dwyer -
David Dwyer, Dennis Dwyer PHONE: _____
Larry Dwyer & Janine R Dwyer

COMPANY: _____ FAX: _____

MAILING ADDRESS: 39715 W 199th St Edgerton, KS 66021

Street City State Zip

APPLICANT/AGENTS NAME(S): Jesse Fulcher PHONE: 844-472-4663COMPANY: Rausch Coleman Homes FAX: _____MAILING ADDRESS: 4058 N College Ave Ste 300 Fayetteville, AR 72703

Street City State Zip

ENGINEER/ARCHITECT'S NAME(S): Ben Gasper PHONE: 913-444-9615COMPANY: SMH Consultants FAX: _____MAILING ADDRESS: 5201 Johnson Dr Suite 405 Mission, KS 66205

Street City State Zip

SIGNATURE OF OWNER OR AGENT: _____

If not signed by owner, authorization of agent must accompany this application.

FOR OFFICE USE ONLYCase No.: RZ- ZA2022-01 Amount of Fee Paid: \$ \$250 Date Fee Paid: 5/27/22 Receipt # 64009Received By: Christopher Clinton Date of Hearing: July 12, 2022**REZONING INSTRUCTIONS**

CERTIFIED LETTERS: The applicant will be responsible for mailing notices (see attached Property Owner Notification Letter) of the public hearing for the requested rezoning by certified mail, return receipt requested, to all owners of land within the notification area: two hundred (200) feet within the city limit, one thousand (1,000) feet in the unincorporated area of the subject property. These notices must be sent a minimum of twenty (20) days prior to the public hearing. Information regarding ownership

vs. 12.28.20

PROPERTY OWNER NOTIFICATION AFFIDAVIT

Case No.: RZ- 2022-01

I, **Ben Burton**, of lawful age being first duly sworn upon oath, state:

That I am the agent (agent, owner, attorney) for the property for which the application was filed and did, not later than twenty (20) days prior to the date of the public hearing scheduled before the Edgerton Planning Commission, mail certified notice to all persons owning property within the notification area (two hundred (200) feet in the City of Edgerton, one thousand (1,000) feet in the unincorporated area of the subject property) in compliance with the Unified Development Code.

These notices were mailed on the 17 day of June, 2022.



Signature of Agent, Owner or Attorney

Subscribed and sworn to before me this 17 day of June, 2022.



Notary Public

My Commission Expires: 3-5-2023 (SEAL)
Date



PLANNING COMMISSION MEETING

July 12, 2022

A regular session of the Edgerton Planning Commission (the Commission) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on July 12, 2022. The meeting convened when Chairperson John Daley called the meeting to order at 7:00 PM.

1. ROLL CALL

Jeremy Little	absent
Charlie Crooks	present
Adam Draskovich	present via videoconference
John Daley	present

With a quorum present, the meeting commenced.

Staff in attendance: Katy Crow, Development Services Director
Chris Clinton, Planning and Zoning Coordinator
Beth Linn, City Administrator

2. **WELCOME** Chairperson Daley welcomed all in attendance to the meeting.

3. **PLEDGE OF ALLEGIANCE** All present participated in the Pledge of Allegiance.

Chairperson Daley welcomed Commissioner Draskovich as the newest member of the Edgerton Planning Commission. Commissioner Draskovich is replacing Deb Lebakken who has been appointed to the Edgerton City Council and resigned her position on the Commission. He stated he was sworn in yesterday, July 11, 2022.

Commissioner Draskovich stated he moved to Edgerton in 2010 and loves the community. He has worked for Burlington Northern Santa-Fe for seventeen (17) years and plans to be in Edgerton for many more years.

CONSENT AGENDA

4. Approve Minutes from the May 10, 2022 Planning Commission Meeting.

Commissioner Crooks moved to approve the consent agenda. Commissioner Draskovich seconded the motion. The consent agenda was approved, 3-0.

REGULAR AGENDA

5. DECLARATION

Chairperson Daley asked the Commissioners to declare any correspondence they have received or communication they have had regarding the matters on the agenda. If they

have received correspondence or have had any communication, he asked if it may influence their ability to impartially consider the agenda items.

The Commissioners did not have anything to declare at this time.

BUSINESS REQUIRING ACTION

NEW BUSINESS

6. **ELECTION OF PLANNING COMMISSION OFFICERS.** Pursuant to the Bylaws of the Planning Commission, an annual meeting is held in June of each year for the purpose of electing a Planning Commission Chair, Vice Chair, and a Secretary. The June 14, 2022 meeting was cancelled due to no items to be presented to the Commission.

Commissioner Crooks nominated John Daley to remain the Chairperson of the Planning Commission. Commissioner Draskovich seconded the nomination. Mr. Daley will remain the Chair, 3-0.

Chairperson Daley nominated Jeremy Little to serve as the Vice Chair of the Planning Commission. Commissioner Crooks seconded the nomination. Mr. Little will serve as the Vice Chair of the Planning Commission, 3-0.

Chairperson Daley nominated Charlie Crooks to serve as the Secretary of the Planning Commission. Commissioner Draskovich seconded the nomination. Mr. Crooks will serve as the Secretary of the Planning Commission, 3-0.

Chairperson Daley stated during the remainder of the meeting, there will be two (2) public hearings and an opportunity to hear public comment and concerns regarding those 2 specific items. The applicant will be allowed to present their information in order for the Commission to make a recommendation to the Governing Body if so warranted. He said anyone wanting to speak during the public comments portion of the meeting will be able to do so. Speakers have been asked to sign in and provide their name and address. Speakers will be limited to three (3) minutes each and the public hearing is limited to one (1) hour in length. He informed speaker their comments must pertain to the item for which the public hearing is being held. He stated that as the chairman of the Commission, he reserves the right to modify the procedures as needed to conduct an orderly and efficient meeting.

7. **PUBLIC HEARING REGARDING APPLICATION ZA2022-01 FOR REZONING 80.4 ACRES LOCATED ON THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD FROM JOHNSON COUNTY RURAL (RUR) TO CITY OF EDGERTON PLANNED UNIT DEVELOPMENT (PUD)** Applicant is Jesse Fulcher, Agent of Rausch Coleman Homes, Developer.

Chairperson Daley opened the public hearing for Application ZA2022-01. He stated if someone has signed up to speak, they will be called forward as time allows. He requested that speakers come up to the podium to speak and state their name and address prior to speaking.

Ms. Darlene Lund, 39380 W. 207th Street, Edgerton, KS 66021, addressed the Commission. She said she is not only speaking for herself but also for her mother as well. She inquired as to why the parcel needs to be rezoned. She doesn't understand nor does she want the parcel to be rezoned. She said she wants to know why this is even an option for the applicant. She claimed rezoning this property has zero value to Edgerton. Ms. Lund stated Edgerton does not support nor want rentals or additional homes and Edgerton will not grow because of these applications. She said there are other cities nearby that have the stores and amenities that residents can get to, and these applications will add zero value to this town if approved.

Mr. James Oltman, President of ElevateEdgerton!, spoke before the Commission. He said he is speaking in support of the rezoning. He stated the City is in need of a new housing development. He explained the planning consultants at RDG completed a housing assessment in 2021. It found that approximately seventy-one percent (79%) of the houses in Edgerton were built between 1970 to 2009 and less than one percent (1%) has been built since 2010. Mr. Oltman said there are obstacles that need to be overcome. There is a lack of buildable lots, infrastructure challenges as well as other issues. Approving the rezoning is a consideration to address the housing needs in Edgerton and is the first big step in addressing these challenges to bring in other future development. This will help bring and make Edgerton a vibrant community.

Ms. Cheri Magee, 1301 W. 8th Street, Edgerton, KS 66021, approached the Commission. She stated she has done research on PUDs. She stated a PUD is made of retail, multifamily rentals, and single-family residential homes. She stated Edgerton does need roofs but is unsure if what the City needs a development of this size. She found very few positive comments about the developer and lots of negative reviews. She has heard they are building homes in Spring Hill and Paola. She said the City does not need more of the same homes that are already here. The City needs variety of houses. She explained she is looking to downsize, and the examples provided are not it. She requested verification if there is going to be space for retail or not.

Mr. Darius Crist, 510 W. Braun Street, Edgerton, KS 66021, addressed the Commission. He stated he is not in favor of the rezoning and requested the Commission deny the request. He said he wants to know more about the styles of the proposed houses. He is concerned the zoning and development could bring the values of the existing houses down. He knows others in area do not want the development. He claimed there would be an increase in traffic. He implored the Commission deny the request.

Mr. Glyn Powers, 1606 W. 8th Street, Edgerton, KS 66021, spoke to the Commission. He stated he has seen some of the houses being built in Spring Hill by this developer. He felt that they are decent homes. If this site does get developed, then the sanitary sewer is going to be extended to the site and will be close to his property. He wants the opportunity to connect to the sanitary sewer.

Mr. Mark Sander, 1250 W. Braun Street, Edgerton, KS 66021 approached the Commission. He said he has 3 teen aged boys who about to be driving. He wanted to know the plan for the intersection of Braun Street and 8th Street. He wants to know if turn lanes will be added and what the traffic flow will look like. He said in the last decade, there have been 2 or 3

building permits for new houses, and he inquired to how City staff is going to handle the drastic increase of building permits. He claimed the jump in number of permits is not justified. The increase of families will bring in more children and he asked how much will it strain the elementary school and the resources that are already bending. He wanted to know if those concerns had been considered. He is also concerned about the law enforcements' resources and if that had been considered when the application was provided to the City.

Chairperson Daley closed the public hearing. He requested the applicant present their application.

Mr. John Stone, Rausch Coleman Homes, addressed the Commission. He stated his head constructor and design engineer are with him to answer questions. He said he is from a small town and understands the concerns raised by the public. He explained this project will bring growth to the City and there are challenges as cities grow. This type of project does bring businesses into town as well. This development will primarily focus on first time homeowners and people looking to downsize their current homes. He believes this is a good fit for this community.

Mr. Stone explained Rausch Coleman Homes is based out of Arkansas. They construct 5,000 to 6,000 homes a year in four (4) states. He stated this PUD would come with Homeowner's Associations (HOA). He understood the concerns that this project would be filled with rental houses. He explained big companies that own many houses and rent them are not the target for these homes and Rausch Coleman has moved away from that as they will not own the homes in the project. He stated a HOA helps protect the value of the neighborhood and keeps lawns the same and maintained and other handles other nuisances. The first impression of these homes for the buyer is that the neighborhood is well maintained and taken care of. The houses proposed have brick and stone on the front with landscaping. He stated there are about twenty (20) different house plans that Rausch Coleman has to offer and roughly ten (10) of those will be the focus for this development. The lot size determines which floorplan will work on each lot. Each house will have a 2-car garage as well. Rausch Coleman likes to vary the look of the homes, so it does not feel like a rental or townhome area. He strongly recommended that people tour the homes Rausch Coleman has constructed in other cities nearby if they are able to. He explained the developer does not want row houses with rentals and green spaces will be included to make it feel more like a community.

Mr. Shawn Cheevers, Division President of Rausch Coleman Homes, spoke before the Commission. He stated they are currently building in forty-two (42) in Paola that are fourteen (14) different floorplans. Rausch Coleman will fit the floorplans with the available lots. Without the lots being finalized in size, it is difficult to specifically state which floorplans will be available. He explained prices are volatile right now, but the price of lumber is going down. The target price for these homes will be \$260,000 to \$360,000. The houses will come with fully sodded yards, street trees, and trees in the front and back yards. Mr. Cheevers explained that even though there will be different models of houses, they will change colors as well so the development will not look like a cookie-cutter development. There will be similar floorplans, but they will be spaced out throughout the development. He said all of the homes have a standard warranty. He stated Rausch Coleman has a third-party

engineering firm that inspects the foundations and other aspects, as well as the City inspectors. He said Rausch Coleman has been building homes for sixty-five (65) years and they keep the model very similar from development to development.

Chairperson Daley asked staff to present their staff report and findings.

Ms. Katy Crow, Development Services Director, addressed the Commission. She explained the parcel is within the Bull Creek watershed and was annexed into the City on April 14, 2022. She stated the City of Edgerton will provide water and sanitary sewer service to the parcel, Evergy will be the electrical service provider, Kansas Gas Service will supply natural gas to the site. She said police service will be provided by the City of Edgerton through the Johnson County Sheriff's Office and fire protection will be provided by Johnson County Fire District #1. She said the parcel has not had any prior applications submitted to the City prior to this rezoning request. The property has been undeveloped and used as agricultural since 2006 per Johnson County AIMS. It was zoned Johnson County Rural (RUR) and has retained that zoning designation.

Ms. Crow stated the applicant has requested from Johnson County RUR to City of Edgerton Planned Unit Development (PUD) for development of single-family residential lots. Article 6 of the Edgerton Unified Development Code (UDC) states that the purpose of the PUD is to encourage and allow a more creative and imaginative design of land developments than is possible under district zoning regulations. PUDs are intended to afford the developer substantial flexibility when planning and designing a development proposal. She explained the PUD will be for single-family residences only. The PUD is an important tool to help developers and home builders design projects that balance the rising fixed costs, like extension of road and utility infrastructure, and rising costs of building materials with the changing preferences of the home buyer for lower yard maintenance or more close-knit, walkable neighborhoods which include amenities. Ms. Crow said the applicant is proposing 275 total residential lots broken out in four (4) phases. Phase I is to be comprised of eighty-one (81) lots. The second phase will have seventy (70) lots. Phase III will contain sixty-one (61) lots. The final phase will have (63) lots. The residential lots will make up 48.2 acres, greenspace will make up 9.7 acres, storm drainage will comprise 3.4 acres, and dedicated right-of-way will make up 19.1, for a total of 80.4 acres. Ms. Crow explained the zoning map and said all City of Edgerton Single-Family Residential (R-1) are within the City limits.

Ms. Crow explained City staff has reviewed the rezoning application with respect to the UDC, the laws of Kansas, and the "Golden Criteria" as established by the Supreme Court of Kansas in 1978. She read the review comments:

1. **Need for the Proposed Change** – When this parcel was annexed into the City of Edgerton, it contained a Johnson County RUR zoning designation as assigned by the County. That zoning designation allows for agricultural or residential uses, and it is considered a holding designation post annexation. Prior to any development occurring on the parcel, rezoning to a City of Edgerton zoning designation is required. The applicant has requested that this parcel be rezoned to PUD to allow for the future single-family Planned Unit Development.
2. **Magnitude of the Change** – This parcel is located near other single-family residences; therefore, the magnitude of change would not be considered unusual for this area.

3. **Whether or not the change will bring harm to established property rights** - The subject property is located near and adjacent to other residential uses. While the proposed development does have a higher density than those of surrounding residential areas, the development will not change any property rights to the neighboring properties.
4. **Effective use of Land** – The applicant has indicated the zoning designation of PUD will be used to develop the parcel for single-family residential. This would be an effective use of the land as houses are in high demand throughout Johnson County. This development could help bring other residential development to the City along with the amenities that support a residential development.
5. **The extent to which there is a need in the community for the uses allowed in the proposed zoning** – A 2021 Edgerton housing study indicated that there is a need for all types of housing in Edgerton. One strategic objective of the housing study was to provide a range of housing environments by offering moderately priced housing types which meet the housing need for households that are at different points in their life. This study also determined that Edgerton's average annual construction need for single family homes is 21 units per year with a cumulative total of 205 by the year 2030. A critical component for housing in the Edgerton community is 'move-up' housing – new housing that will allow existing residents to move into housing that better fits their needs while allowing them to continue living in the community they have become an integral part of. Rezoning this parcel to PUD for residential development will help to fulfill some of Edgerton's housing need.
6. **The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space** – As shown in Figure 1 of this Staff Report, the subject parcel is near other parcels which currently contain a residential zoning designation. Directly north across 207th/Braun Street are existing single-family residences. Parcels abutting the west and south boundaries of the subject parcel are currently zoned Johnson County RUR. The parcel across 8th Street/Edgerton Road is also an RUR zoned parcel. While the residential density in RUR zoning designations is lower than that of a traditional residential subdivision, residential lots with an R-1 zoning designation are currently located roughly a quarter of a mile to the north of this parcel. The companion PUD Conceptual Plan (PUD2022-01) provided by the applicant represents the first new home subdivision development in Edgerton in approximately 20 years. The applicant's design includes green space, a walking trail, a neighborhood pocket park, and sidewalk on one side of each street. The proposed dwelling units are diverse in floor plan and represent a variety of housing types.
7. **Compatibility of the proposed zoning and uses permitted therein with the zoning and uses of nearby properties** – As noted in #6 above, the proposed zoning is compatible with the existing zoning of neighboring and nearby parcels. The companion Conceptual Plan submitted by the applicant (PUD2022-01) is for single-family residential which is a permitted use adjacent to other residential uses. The proposed zoning and land use is consistent with the City's Future Land Use Map.
8. **Suitability of the uses to which the property has been restricted under its existing zoning** – When a parcel is annexed into the city, it retains its existing zoning designation until it goes through the rezoning process and receives an Edgerton zoning designation. The existing Johnson County RUR zoning of the applicant property is considered a holding designation until this process occurs. Johnson County RUR zoning

is primarily for agricultural and low-density residential use. The current zoning designation, Johnson County RUR, does not exist within Edgerton, and as such, a rezoning must occur before any development by the applicant would be allowed.

9. **Length of time the subject property has remained vacant under the current zoning designation** - Based upon available aerial photography, the property has been used for agricultural purposes in unincorporated Johnson County dating back to at least 2006.
10. **The extent to which the zoning amendment may detrimentally affect nearby property** - This parcel is located near several parcels which today contain a City of Edgerton R-1 zoning designation. The UDC requires that uses within the proposed PUD be of a type, and be appropriately located, so as to exercise no undue detrimental influence upon surrounding properties.
11. **Consideration of rezoning applications requesting Planned Development Districts (PUD) for multifamily and non-residential uses should include architectural style, building materials, height, structural mass, siting, and lot coverage** – This is not a request for multifamily or non-residential PUD uses.
12. **The availability and adequacy of required utilities and services to serve the uses allowed in the proposed zoning. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services** – Water, electric, and gas utilities are located in the right-of-way adjacent to this property or across 8th Street/Edgerton Road. The sanitary sewer connection will come from the east and will connect to the Sunflower Benefit District wastewater infrastructure. Extension of the utilities into the site will need to take place as the PUD is developed.
13. **The extent to which the uses allowed in the proposed zoning would adversely affect the capacity or safety of that portion of the road network influenced by the uses, or present parking problems in the vicinity of the property** – Substantial construction has been completed on the grade separation along 207th Street/Braun Street to allow traffic to flow uninterrupted over the BNSF train tracks located east of this parcel. While traffic will increase as development occurs, the Conceptual Plan application process for PUDs requires the submittal of a traffic study for the area that will be reviewed by the City Engineer to determine what improvements are needed to the adjacent road network and the timing of those improvements. Additionally, the applicant has indicated that the development will have a Homeowners Association (HOA) which will have restrictions and covenants regarding on street parking.
14. **The environmental impacts that the uses allowed in the proposed zoning would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm** - The City will follow National Pollutant Discharge Elimination System (NPDES) guidelines and stormwater management requirements which require any application to address runoff and water pollution mitigation measures as part of the development of the property. Any construction that occurs on site will be required to get a NPDES permit from the State of Kansas and a land disturbance permit from the City. Those permits require a stormwater pollution prevention plan (SWPPP) that is reviewed by the City and the State. A full stormwater

study of the site is also required and will be reviewed by the City Engineer prior to the issuance of a Land Disturbance Permit.

15. **The economic impact on the community from the uses allowed in the proposed zoning** – The proposed used for this rezoning request is a PUD with approximately 275 single-family residences. The applicant has included an assumption that a single-family home valued at \$275,000 assessed at 11.5% and a mill levy of 146.180 will generate approximately \$4,600 in annual property taxes, with \$920 being distributed to the City of Edgerton and \$2,116 allocated to USD 231 Gardner Edgerton. The increase in rooftops could also drive further commercial growth and development which will also greatly benefit the community.
16. **The relative gain (if any) to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such denial** - There would be little relative gain, if any, to the public health, safety, and welfare from the denial of these zoning applications.
17. **Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton** - The Comprehensive Plan for the City of Edgerton shows this area as appropriate for low density residential which includes traditional single-family residential. The requested rezoning is compatible with the spirit and intent of future development outlined in the Comprehensive Plan and Future Land Use Map.
18. **The recommendation of professional staff** – City staff recommendation will be provided shortly.

Ms. Crow stated City staff recommends approval of Rezoning Application ZA2022-01 for Timber Creek Subdivision, subject to the following stipulations:

1. All infrastructure requirements of the City are met.
2. All requirements of the City for a PUD are met.

Ms. Beth Linn, City Administrator, stated that she did write down the questions and concerns raised by the public. Chairperson Daley requested she go through those.

Ms. Linn stated the first question was why the parcel needed to be rezoned. She explained the parcel needs to be rezoned as the developer wants to develop the parcel. The City does not have a RUR zoning designation nor does the City have regulations for RUR development, so rezoning to a City of Edgerton zoning designation is required to develop the parcel.

Ms. Linn said the City and Johnson County did housing studies that showed real estate agents, the Planning Commission, the City Council, and many residents want new housing. Ms. Linn stated this PUD would be for single-family residential (SFR) development only. There is no retail, commercial or multi-family residential proposed in this development.

Ms. Linn acknowledged the fact that there have been very few permits for new residential construction and City staff will need to meet the demand this development would create. She stated residents want new housing overall. The City does not have many platted lots that can be developed. Ms. Linn explained most residential development is done via subdivision developed from large lots such as this proposal. She said an average of twenty-

one (21) houses need to be constructed a year to keep up with demand per recent housing studies.

Ms. Linn said the City does have plans to improve the intersection of Edgerton Road/8th Street and 207th Street/Braun Street. Those plans include a turn lane from south Edgerton Road/8th Street 207th Street/Braun Street. This work is a continuation from the grade separation project. The City Engineer has reviewed the submitted Traffic Impact Study (TIS) from the applicant. Those items are not typically addressed during the rezoning phase of development. She stated the City understands that upgrades will probably be needed on the existing road infrastructure.

She said the styles of the houses proposed are shown in the packet. The applicant also has provided a range of values the homes will be priced at. The sanitary sewer will be extended to the parcel for the new homes to tap into. Ms. Linn stated in regard to the elementary school, the school currently has capacity for new students and the City will meet with the superintendent to discuss the impact of the possible housing will have on the school. She said all City services will be increased and the phasing of the project helps the City understand when to be ready for the increase of those services. She explained there is a lot of information in the packet than just the application and Staff Report.

Chairperson Daley asked if nearby residents will be required to tap into the sanitary sewer. Ms. Linn replied the Municipal Code requires residents to tie into the sanitary sewer and City staff is bound by the code. Discussions on how to design and how to add the new customers are still being had.

Chairperson Daley inquired about the risk of the developer not moving forward with the project or the possibility of tax abatements for the development. Ms. Linn answered that there is no development agreement currently in place and the current request is only for rezoning.

Commissioner Crooks said it is hard to make the decision without all of the information. Ms. Linn replied the rezoning is about the use of the ground and the Commission needs to determine if they feel single family residential is the best use for the ground or not. She added there is a lot of information in the packet including the concept plan showing the possible way the lots could be platted.

Commissioner Draskovich inquired about the easement for the road. He wanted to know if the easement is measured from the centerline of the road or the edge and if there would be enough room for street expansion to widen the road if needed. Ms. Linn answered the easement is measured from the centerline and is consistent with the county wide road network. The easements provide enough width for future expansion. Commissioner Draskovich said as a growing town, it is important to have the space to expand roads the roads when that is needed.

Commissioner Draskovich asked Mr. Cheevers if the third-party inspector is one that has been used by them before or if a local company will be used. Mr. Cheevers answered the houses will be built to comply with the City's requirements. The third-party inspector will inspect all of the homes weekly as well as the required inspections per the building code by

the City building inspector. Ms. Crow added George Butler Associates (GBA) does all of the City's inspections and building plan review. Commissioner Draskovich said with the City taking on a lot of permits, the phasing will help ease the strain on the increased number of permits. He inquired if the City has had discussions with the fire department on whether or not they could handle the increase in the number of homes. Ms. Linn replied she and the Mayor went to a work session with Johnson County Fire District No. 1 and spoke about future growth of Edgerton which included possible future residential expansion. Preliminary discussions have been had then the City will reach back out to the fire department, as well as other partners, so they are aware and can plan for the increases as well. Ms. Crow addressed the permitting concerns as the first phase is for 80 homes but are estimated to sell four (4) to eight (8) homes a month. The 4 to 8 permits a month is manageable for City staff.

Chairperson Daley asked why the rezoning request is for PUD and not R-1. Mr. Stone replied that Rausch Coleman is able to mold and fit the community. They attempted to get a feel for the community before the rezoning request. He said they do not push one zoning designation over another.

Commission Crooks said he is concerned about the truck routes in the area.

8. **CONSIDER APPLICATION ZA2022-01 FOR REZONING 80.4 ACRES LOCATED ON THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD FROM JOHNSON COUNTY RURAL (RUR) TO CITY OF EDGERTON PLANNED INTU DEVELOPMENT (PUD)** Applicant is Jesse Fulcher, Agent of Rausch Coleman Homes, Developer.

Commissioner Crooks moved to recommend approval of Application ZA2022-01 with the stipulations outlined by City staff to the Governing Body. Commissioner Draskovich seconded the motion. Application ZA2022-01 was recommended for approval with the stipulations outlined by City staff, 3-0.

9. **PUBLIC HEARING REGARDING APPLICATION PUD2022-01 FOR A PLANNED UNIT DEVELOPMENT CONCEPTUAL PLAN FOR 80.4 ACRES LOCATED ON THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD** Applicant is Jesse Fulcher, Agent of Rausch Coleman Homes, Developer.

Chairperson Daley opened the public hearing for Application PUD2022-01. He stated if someone has signed up to speak, they will be called forward as time allows. He requested that speakers come up to the podium to speak and state their name and address prior to speaking.

Ms. Nancy Kirk-Matthew, JC Nichols, approached the Commission. She said she was involved in the land transaction but does not represent Rausch Coleman. She wanted to explain the role of an HOA. She said an HOA's can be similar or completely different as each community is different. The main role of the HOA is to protect the property's value. A house is typically the largest investment for a family. She explained the fees are usually paid annually and those fees go toward the maintenance of the common areas of a subdivision.

The dues may also be used to pay for trash collection and keeps it on the same day throughout a development. She said HOA's may also restrict fencing or other accessory structures so there is a more uniformed look throughout the subdivision. Other HOA's will mandate paint colors to avoid strong colors being used on houses. She stated most developments like the proposed one will have an HOA to help protect the property values of the properties within the development.

Mr. Oltman spoke before the Commission. He said he is in support of a much-needed housing project that has been years in the making. He said Rausch Coleman and ElevateEderton! have been exchanging emails since 2018. They both want a project that works for the City and the developer. He said it has been a challenging project to say the least. There has been a lot of time and work put into this submission that went through many variations. Mr. Oltman said there are many parcels and with different rates for a wide range of houses. He explained a PUD will allow the developer and City to market the homes to many more home buyers. The largest lots could have bigger homes for growing homes and the smaller lots could be used for houses for people looking to downsize. The medium lots would be good for first time buyers. Housing needs are drastically different today than even 4 years go. This submission was not put together hastily, and he would like to see the Commission be on the side of progress.

Mr. Mike Mabrey, 1200 W. Braun Street, Edgerton, KS 66021, addressed the Commission. He said his property sits in the waterway. He explained there is floodplain in the first phase of the development. Currently, water will back-up onto neighboring properties. He is concerned about the fact that a PUD does allow for smaller setbacks and the applicant wants to reduce it even more than what is allowed per the UDC. He has also seen neighboring communities have smaller subdivisions that have more than a playground and green spaces as amenities.

Mr. Sander approached the Commission. He said he is confident that City staff did a thorough job and the information in the housing studies was valuable at the time, but it is now 2022. The inflation has increased faster than ever, and mortgage rates have doubled since last year. A current rate is 5.77% now and was it was just 3.25% last year for a buyer in the same situation. He claimed information gathered in 2021 is not useful today. There are still supply chain issues. The prices of lumber may be going down, but contractors still can't get all of the goods they need. Mr. Sander said the number of mortgage applications is declining and interest rates are higher now than what Americans have accepted for the last decade. He stated some people were able to refinance and got rates around 2%. He wants the Commission to think about and consider those items. He said information in 2021 was accurate then, but it is now a new ball game. He asked what if the City signs on the dotted line and nobody will buy the houses with 5-6% mortgage rates. The mortgage business has slowed down.

Chairperson Daley closed the public hearing. He requested the applicant present their application.

Mr. Stone spoke to the Commission. He said the civil engineer will speak regarding the infrastructure. Mr. Ben Gasper, SMH Consultants, approached the Commission. He said SMH Consultants has done a lot of subdivisions as the civil engineers and land surveyors. He

explained the proposed roads will have some curves to help reduce speeding. They had to take into account the existing topography of the parcel. He explained there is a large amount of greenspace on the north as it is floodplain and will not be touched. If there is work done in the floodplain, SMH Consultants will work with the state and federal government to ensure the proper measures are followed. There is more greenspace to the south for drainage as well. Mr. Gasper stated additional reports will be supplied for review to ensure proper detention is provided. He explained no additional stormwater will be going onto other properties. The sanitary sewer will be expanded from the east across the tracks and the water line will go to every house. The gas, electric, and cable will be located in the rights-of-way. He stated there will be improvements to exterior roads especially to Edgerton Road as it is currently a gravel road.

Chairperson Daley asked staff to present their staff report and findings.

Ms. Crow reminded the Commission that a PUD is different than the typical development process. She said the submitted Conceptual Plan replaces the Preliminary Plat that the Commission is used to reviewing. This is the first piece in the PUD process. When the applicant brings forward the phases of the development, the Commission and Governing Body will need to approve those documents as well. Chairperson Daley asked if Phases 2, 3, or 4 could not be heard for years. Ms. Crow answered that is correct and when the phases are submitted, they will be checked to ensure it matches the Conceptual Plan. Commissioner Crooks asked if the City charges the requirements between the Conceptual Plan and the submission of the Final Plan. Ms. Crow replied that the applicant will be held to the standards that were in place when the Conceptual Plan was approved. Chairperson Daley stated the applicant cannot change the items once approved. Ms. Linn stated that is correct as the Conceptual Plan is approved by an ordinance by the Governing Body. Ms. Crow said there is a process the applicant can go through if they decide to change anything.

Ms. Crow stated City staff reviewed the PUD application with respect to the Edgerton UDC, specifically Section 6.1.C, *Standards for Planned Unit Development* and Section 6.3, *Conceptual Plan and Preliminary Plat Submission Data*. Review comments are as followed:

Section 6.1.C – Standards for Planned Unit Development

1. **Comprehensive Plan.** A Planned Unit Development must conform with the objectives of the Comprehensive Plan of Edgerton.
 - a. *There are two goals outlined in the City's Comprehensive Plan that this development would achieve:*
 - i. *Promote a balanced and sustainable community by providing a mix of different types of residential, commercial, and industrial development.*
 - ii. *Provide a range of housing types and price ranges for all citizens of Edgerton.*
 - iii. *Ensure that new subdivisions are integrated into an overall neighborhood design concept where diversity of housing is encouraged, the streets are pedestrian-friendly, and each neighborhood has a center public park or square.*

This Conceptual Plan represents the first new home subdivision development in Edgerton in approximately 20 years. The applicant's design includes green space, a walking trail, a neighborhood pocket park, and sidewalk on one side of each street. The proposed dwelling units are diverse in floor plan and represent a variety of housing types. Standard has been met.

2. **Compatibility.** The uses permitted in a Planned Unit Development must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties.

The parcel this development is proposed on is surrounded by other single-family residential parcels. Standard has been met.

3. **Net Density.** The net density of the Planned Unit Development is not required to precisely correspond with the normal net density of a traditional zoning district, but instead should reflect complementary building types and architectural design. The Planning Commission shall determine net density and floor area through the Conceptual Plan review.

The developer has proposed a variety of lot sizes within this development, and the perimeter lots are equivalent to the required lot sizes in Edgerton R-1 single-family residential zoning. Narrower lot sizing is included on the interior of the development which provides for an increase in density, balanced by the inclusion of green space and walking trails. The applicant has provided cutsheets and elevations of the dwelling styles proposed to be constructed as part of this subdivision project. Architecturally the residences are consistent with current residential development in Edgerton and the building types are complimentary within the subdivision. Standard has been met.

4. The Planned Unit Development site shall be under a single ownership or unified control. Unified control shall mean that the various owners of adjacent site join to submit a unified application for a PUD.

The submitted application has been signed by the current property owners and is for one parcel of land. Standard has been met.

5. **Space Between Buildings.** The minimum horizontal space between buildings shall be:
 - a. Sixteen (16) feet between single-family detached dwellings.

The applicant has requested the spacing between the residential units be ten (10) feet as each dwelling unit will have a five (5) foot side yard setback with setbacks being measured to the exterior building wall, allowing overhangs (eaves) to encroach into the setback. The City's contracted building official review has noted that all aspects of the building, eaves included, needs to be a minimum of 10 feet apart, unless fire rated materials, such as cement fiberboard, are used in construction.

Pursuant to Article 6, Section 6.1(C)(9)(b), departure from any requirement specified in this UDC or other City ordinances and regulations is a privilege and shall be granted only upon recommendation of the Planning Commission and approval by the Governing Body. Staff recommends the Planning Commission grant this departure from standards for setback distance as long as fire rated materials are used in construction.

6. **Yards.** The minimum required yards in a PUD shall be:
 - a. The required yards along the periphery of the Planned Unit Development shall be at least equal in width or depth to that of the adjacent zoning district.

The applicant has shown that all of the periphery lots meet this requirement either in width or depth. Standard has been met.

- b. The minimum required side yards shall be consistent with the space standards listed in item 5a-d stated above.

As noted in 5.b. above, the applicant has stated the spacing between the residential units will be ten (10) feet as each dwelling unit will have a five (5) foot side yard setback with roof overhang in the side yard setback. Staff recommends the Planning Commission grant this departure from standards for setback distance as long as fire rated materials are used in construction.

- c. The minimum front and year yard shall be determined by the review of the Planning Commission and approval of the Governing Body and shall be based on design or construction features that are deemed both architecturally and environmentally superior, are consistent with the provision of amenities, and are in strict compliance with Edgerton's building, fire health, and other applicable codes, and/or contribute to the increased health, safety, and welfare of existing and future residents of Edgerton.

The applicant's Conceptual Plan contains the following setbacks as compared to the standard requirements for R-1 Single-Family Residential:

	Standard R-1	Proposed PUD2022-01
Interior Lot Width	70 feet	50 feet
Front Yard Setback	35 feet	28 feet
Rear Yard Setback	22 feet	20 feet
Side Yard Setback	9 feet	5 feet
Corner Yard Setback	20 feet	15 feet

As is noted in the description of a PUD, utilizing this type of development tool allows the developer more flexibility in lot sizing within the development. In addition, the existence of a Homeowner's Association (HOA) with Covenants, Conditions and Restrictions (CCRs), helps enforce lot maintenance and parking standards. Staff supports the departure from standard R-1 lot sizes for this project.

7. **Parking Standards.** Adequate parking shall be provided and shall be in general conformance with the parking regulations provided for in other section of this Ordinance unless changes are warranted by the particular characteristics of the proposed Planned Unit Development.
- a. Additional parking space for guests, customers, the handicapped, recreational vehicles, and other common storage and/or parking uses in Planned Unit Developments, shall be required by the Governing Body, acting upon the recommendation of the Planning Commission, if warranted by the particular characteristics of the proposed Planned Unit Development.

Article 16 of the UDC requires single-family dwellings have three (3) parking spaces with one (1) being inside a garage. The Conceptual Plan overview indicates that each of the proposed dwellings will have an attached garage for two (2) or three (3) cars. The provision of parking in an attached garage and on

a driveway meets the requirements for the minimum amount of parking required by the UDC. Additionally, the HOA has CCRs in place which provide additional parking requirements for the development. Standard has been met.

8. **Traffic.** The PUD must incorporate adequate provisions to provide ingress and egress designed to minimize both internal and external traffic hazards and congestion.

The applicant has submitted a Traffic Impact Study (TIS). The City will use this study and the proposed development phasing to determine the scope and timing of any improvements to the adjacent road network (see Item #5 on page 8 of this Staff Report). Standard has been met.

9. **Design Standards.** The basic design standards for a PUD are provided in this UDC and are known as the "Subdivision Regulations."

- a. **Use Standards.** The standards for the allowable use of building and land are provided throughout the various use districts of this UDC.
- b. **Departure From Standards.** The Planned Unit Development may depart from strict conformance with the required density, dimension, area, height, bulk, use and specific content regulations of this Ordinance to the extent specified in the preliminary plat and documents authoring the Planned Unit Development so long as the Planned Unit Development provides tangible benefits to the neighborhood or community in which it is located. These benefits shall be in the form of provisions of amenities, design excellence, and general compatibility with neighboring properties. The waiver of any requirement shall be the direct cause of accrual of benefits to the residents of the development as well as to the general community. Departure from any requirement specified in this UDC or other City ordinances and regulations is a privilege and shall be granted only upon recommendation of the Planning Commission and approval by the Governing Body.

The applicant has requested a departure from the standard lot width for R-1 single-family residential development as some of the proposed lots are fifty (50) feet wide, compared to the minimum requirement for R-1 residential of seventy (70) feet in width. The benefits proposed by the developer to counter the narrower lot widths include a 10-foot trail along 207th Street/Braun Street and 8th Street/Edgerton Road, a playground area in the center of the development and proposed sidewalks throughout. Staff supports the recommendation and approval of departure from standard R-1 lot sizes for this project.

Section 6.3 – Conceptual Plan and Preliminary Plat Submission Data

1. **Conceptual Plan and Plat.** A drawing of the Planned Unit Development shall be prepared at a scale that provides for a clear understanding of the way in which the property is intended to be developed. The Plan shall indicate the concept of the development with refinements to indicate the overall land use pattern, general circulation system, open space or park system, and major features of the development together with a set of proposed restrictions, conditions, and covenants. The Plan must include:
 - a. Boundary lines and dimensions of the subject site.
 - b. Existing and proposed easements – general location and purpose.
 - c. Streets on, adjacent, or proposed for the tract, including all rights-of-way and pavement widths.

- d. Land use pattern proposed for the subject site.
- e. Map data – name of development, name of site planner, north point, scale, date of preparation.

As stated in Article 6, Section 6.2.C, the Conceptual Plan is prepared to serve in lieu of a preliminary plat. The applicant has provided a Conceptual Plan that meets all of the requirements noted in Section 6.3(1) above. A draft copy of CCRs related to the HOA has also been provided. Requirement has been met.

2. **Site Data.** A list of pertinent site data, including:

- a. Description and quantity of land uses. ***48.2 acres for residential lots, 19.1 acres of dedicated right-of-way, 3.4 acres of drainage, 8.7 acres of floodplain, and 9.7 acres of greenspace.***
- b. Acreage of site. ***80.4 acres.***
- c. Number of dwelling units proposed. ***81 lots in Phase I, 70 lots in Phase II, 61 lots in Phase III, and 63 lots in Phase IV; for a total of 275 residential lots.***
- d. Area of industrial, commercial, institutional, recreational, and number of buildings proposed. ***48.2 acres of residential with 275 single-family homes. No commercial, institutional, recreations, or industrial buildings.***
- e. Densities of residential area.
 - i. ***The Edgerton UDC defines the gross density as the numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land (in acres) within a development. This would include all non-residential land uses and private streets of the development, as well as rights-of-way of dedicated streets. The applicant has stated the gross density for this project is 3.42 dwelling units per gross acre of land.***
 - ii. ***The Edgerton UDC defines the net density, as the numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open spaces and associated recreational facilities within the area. The result is the number of dwelling units per net residential acre of land. The net density calculation, excluding rights-of-way of publicly dedicated and private streets, is 5.71.***
- f. Housing mix. ***Applicant has provided cut sheets and elevations which represent the available floor plans for this development. Those have been included with this Staff Report.***
- g. A statement indicating how the proposed Planned Unit Development corresponds to and complies with objectives for Planned Unit Developments as previously stated in the Article. ***The applicant has included this information in their cover letter, stating that the subdivision will allow for the construction of single-family homes, which is the predominant land use in this area. The development will be compatible and harmonious with surrounding land uses. The preserved stream channel and the inclusion of interior greenspaces for the residents, will make this a unique development that will include recreational benefits for the residents.***
- h. Development schedule indicating:

- i. Stages in which project will be built with emphasis on area, density, use, and public facilities such as open space to be developed with each stage. Overall design of each stage shall be shown on the plat and through supporting graphic material. ***The provided concept plan clearly delineates the phases of development. The table on the plan also shows how many dwellings are to be constructed for each phase.***
 - ii. Approximate dates for beginning and completion of each stage. ***The applicant has provided a letter outlining the timeline for when development is estimated to begin and how the project will be phased. The applicant expects to sell four (4) to eight (8) homes per month until the development is complete, with an estimated project completion time of five (5) years.***
 - iii. If different land use types are to be included within the Planned Unit Development, the schedule must include the mix of uses anticipated to be built in each stage. ***Not applicable.***
3. **Environmental Information.** Data identifying existing natural and environmental site conditions, including:
- a. **Topography.** A topographic map, if possible, underlying the concept plan, at a minimum of ten (10) foot contour intervals. ***The developer has provided a topographical map of the existing contours, but the proposed contours have not been provided. The developer has stated a grading plan will be submitted with the Final PUD. The applicant acknowledges that the final grade could change from the current grade and there may be an impact to the infrastructure design.***
 - b. **Flood Plain.** Information from the most current source specified by the City indicating the location and extent of the regulatory flood plain. ***The flood plain information is displayed on the concept plan and the topographical map.***
 - c. **Soils.** Information from the most current U.S. Department of Agriculture – Soil Conservation Services Soils Catalog indicating the location and species of soils. If said information is not available, soil borings may be submitted. ***This information is provided on the concept plan.***
 - d. Location and extent of existing vegetation. ***An aerial map was providing showing the existing vegetation.***
 - e. A depiction of existing surface drainage patterns and proposed retention and detention areas. ***The applicant has provided a memo outlining how the site currently drains and how it is proposed to be handled in the future. However, a drainage map has not been provided. The developer will provide a grading plan with the Final PUD as the currently proposed grade could change which would impact how the stormwater is handled onsite.***
4. **Utilities.** Statement indicating that sanitary sewer, storm sewer, and water are directly available to the site, or if well and septic systems are proposed, a statement from a licensed professional engineer indicating that the proposed development can be suitably served by such systems.
- a. ***Today there is no sanitary sewer available to the site. There is an existing sanitary sewer main that runs north/south along the east side of the existing railroad tracks and South Lake. The applicant is engaged in***

ongoing discussions with the City to extend the Sanitary Sewer to the site for development.

- b. The developer has indicated that the stormwater will be conveyed in the same direction it currently moves now. A preliminary stormwater drainage memo has been provided. A full stormwater drainage study should be provided at the time deemed appropriate by the City. The memo and study should be sealed.*
- c. An engineering analysis will be performed to review the impact of proposed development to the existing water system and to determine if any upgrades to the system are needed. In their proposal the applicant has outlined how water will be distributed within the development.*

Update plans as needed.

5. **Traffic Analysis.** A study providing information on the existing road network, and adjunct vehicle volumes, and the effect the proposed Planned Unit Development will have on the existing (or improved) road network.

The proposed development would have access via one entrance from 8th Street/Edgerton Road and two entrances via 207th Street/Braun Street. Interior roads and sidewalks will be provided for vehicular and pedestrian circulation throughout the development.

- a. A review by the City Engineer indicates that the right-of-way for the cul-de-sacs does not appear to be large enough. The Fire Code requires a 48-foot radius, however only fifty (50) foot radius of right-of-way is provided. Update plans as needed.*
- b. The TIS has indicated that from a safety and operational standpoint, no auxiliary lanes are warranted based upon the existing and development conditions. Additionally, the TIS indicates that 8th Street/Edgerton Road will need to be upgraded from gravel to a paved 24-ft wide roadway. The City will use this study and the proposed development phasing to determine the scope and timing of any improvements to the adjacent road network. City review and approval of infrastructure plans is required prior to commencement of construction.*

Update plans as needed.

6. **Tax and School Impact.** A study indicating the sources and amounts of revenue to be generated to various governmental jurisdictions as a result of the development, expected school-age children generation, and estimated cost of providing service to the development that will be absorbed by the City and the affected school districts.

- a. The applicant has provided a memo with estimated revenue for each taxing jurisdiction. The applicant estimates one home sold at \$275,000 will generate \$2,116 based on the current mill levy. The applicant explained this is an estimate and it is difficult to predict the exact number of school age children that will live in this development nor can the applicant account for any additional funding the school district might receive from a potential increase in the number of students enrolled.*

7. **Market Analysis.** At the request of the Planning Commission, and depending upon the types of land uses proposed to be included in a Planned Unit Development, information may be provided from one (1) or more of the following categories:

a. Planned Unit Developments proposed to contain any residential uses shall require submission of at least the following market data:

i. Details about the proposal pertaining to: housing types, floor area of dwellings, estimated price ranges, number of bedrooms, densities, and amenities included.

The applicant has stated the single-family homes will 3-4 bedroom with 2-3 bathrooms with 2 or 3-car garages. The homes will range in size from 1,300 to 2,400 square feet and are estimated to be sold from \$275,000 to \$350,000

ii. Total anticipated demand in the City for the type of unit(s) proposed shall be estimated for the immediately subsequent five (5) year period. The percent of that demand which would be absorbed by the Planned Unit Development shall be identified. Methods used in determining the five (5) year demand shall be indicated.

In 2021, a Johnson County Community Housing Study indicated an aspirational growth strategy for the City of Edgerton of 21 units per year through 2030, equating to an anticipated total need of 205 dwellings over the 10 year period. The anticipated rate of construction by the applicant is 4-8 homes per month starting in 2023 with the first closings occurring in the fourth quarter of that same year. As proposed, this project is slightly larger than the forecasted average annual need amount (275 vs. 205) and occurs at an accelerated buildout timeline of 5 years vs. 9 years.

General Comments

1. The City Engineer has stated that while a preliminary stormwater drainage memo has been provided, a full stormwater drainage study is required prior to submittal of a Final Plan. The memo and the study must be signed and sealed. ***Applicant Acknowledges.***
2. All references in the memos to "Flood Zone X – 0.1% Future Conditions" should be corrected to "Flood Zone X – 1% Future Conditions." ***Update plans as needed.***

Ms. Crow stated City staff recommends approval of PUD Conceptual Plan **Application PUD2022-01** for the *Timber Creek Subdivision*, as submitted, subject to the following stipulations:

1. All infrastructure requirements of the City are met.
2. All requirements of the City for a PUD are met.
3. Planning Commission recommendation to grant the departure from Planned Unit Development standards for setback distance on side yards between residential units as long as fire rated materials are used in construction.

Chairperson Daley stated it is time for the Commission to ask any questions regarding this application.

Ms. Linn stated she again took notes from the public hearing. Regarding the stormwater and the parcel siting in floodplain area, a preliminary stormwater study memo has been included in the provided materials and a more detailed stormwater study will need to be done prior to submitting for a final plan. She said if the City enters a development

agreement with the developer, and the houses do not sell, it is not the City's responsibility or role to recruit or find buyers. The Commission is approving the architectural plans and lot layout. The developer is responsible for constructing and marketing the houses while the City does the appropriate building inspections and other services. Ms. Linn said while the phasing is there, sales will ebb and flow and there will always be estimates on the final numbers.

She explained there is a Traffic Impact Study in the packet and the County Arterial Road Network Plan (CARNP) does establish the counts as to when the improvements will need to be done. The City uses the CARNP as guidelines for upgrading the roads. The improvement of the intersection of 8th Street/Edgerton Road and 207th/Braun Street will be based on the provided TIS and CARNP. She explained the City will monitor the area and how this development impacts the area and what possible improvements will need to be done.

Ms. Linn stated there are two other questions for the applicant to answer. The first is to why the smaller set back was chosen. She added City staff has visited many developments and this is not unusual as it is happening all over in new developments. The second item for the applicant is to indicate how the amenities are chosen for the development.

Mr. Stone approached the Commission. He explained they are currently constructing homes in Gardner, Spring Hill, Blue Springs, and Paola. The encroachment of the eaves has been done in those communities without any pushback. He explained odd shape lots happen on cul-de-sacs.

Mr. Stone stated the amenities are negotiated with the municipality. He they proposed whatever has the best feel for the community. He explained smaller parks could be better than a large park as it draws the kids out to play without being intimidating. Walking trails is another typical amenity that is proposed as people with dogs like the trails. Rausch Coleman is open to the type of amenities and is part of a PUD. He stated if City staff feels there might be better amenities for the development, they are happy to discuss the options.

Chairperson Daley inquired if Rausch Coleman has approved PUDs in those cities mentioned earlier. Mr. Stone replied they have multiple PUDs in many towns. He explained a PUD is a give and take and no two PUDs are the same. It is a mutual agreement for what works best for the developer and the City.

Chairperson Daley asked how many PUDs do not include pools in Johnson County. Mr. Stone answered Rausch Coleman rarely installs pools due to the liability unless it is a large scale with apartments. He said their prime market is the first-time home buyer or people looking to downsize.

Chairperson Daley asked if the parking would have to follow the HOA rules. He noted an area that has about forty (40) houses facing each other in one area. Ms. Linn explained the area Chairperson Daley is looking at is where the houses are back-to-back and not facing either other. Ms. Crow added the lots along the perimeter are larger than the interior lots. Chairperson Daley asked about the HOA parking rules and if the streets were wide enough for parking on both sides of the street. Mr. Stone said they meet with the fire department to ensure the safety of any future resident. Ms. Linn stated the City's standard is twenty-eight

(28) feet from back of the curb to the other back of curb. Ms. Crow added all of the proposed houses will include a 2 or 3 car garage. Mr. Stone said they build very few homes with no garages if one is built without a garage, it is a townhome. Commissioner Crooks asked if the electrical lines will be underground. Mr. Stone answered they will be, and those discussions have been done way in advanced.

Commissioner Crooks inquired as to who is doing the stormwater study as there are issues for a few houses to the north of the development. Mr. Gasper replied that a final stormwater study will include their land only and not land to the north, but there will not be any additional watershed to other properties as it will all be detained in the development. He explained whatever is happening now will not be worse by the development. Commissioner Crooks asked what would happen if the properties resolved their stormwater issues. Mr. Gasper replied there is floodway and future floodway shown and those areas will not be disturbed. Anything done by other neighbors will have to be done with approval from the City. Chairperson Daley asked Mr. Mabrey where the current issues are. Mr. Mabrey stated on the north side of 207th/Braun Street, there is silt that deposits 2-3 feet above the catch basin each big rain. Ms. Linn stated the City will investigate what is occurring there today. The City just completed a stormwater master plan that will be presented to the Governing Body that will direct the City in policies and other improvements regarding stormwater. Ms. Linn will research to see if this area was studied as part of the master plan. If it was not, then it would need to be determined if it is a public or private concern once it is understood what is happening in the area. Mr. Gasper stated if the culverts have not been upgraded now, they might need to be upgraded in the future. Mr. Stone added it is possible for an approved plan to be changed and evaluated as to what needs to be done. Commissioner Crooks said he wants the development to be good neighbors with the existing residences. Mr. Stone agreed. Chairperson Daley inquired if Public Works has looked at this area recently. Ms. Linn replied she is not sure if this section was reviewed for the stormwater master plan or not. Mr. Sander stated it is not a new issue and has been occurring for years.

Commissioner Draskovich said he is familiar with the property and how it drains to the northeast. He said a lot of topsoil and vegetation will be removed and fill will be removed. He asked if the constructors will be digging up clay when they are digging basements. He said depending on their process, it will help remove silt buildup and improve the drainage in the area. Mr. Stone agreed and stated the homes will be built on slab with some having basements. He said installing the sod and landscaping will also help with erosion. Ms. Linn explained the developer will also be required to go through Kansas Department of Health and Environment (KDHE) prior to any land being disturbed. She said KDHE requirements are extensive and include monitoring of the site after rains and other requirements.

Commissioner Crooks asked if tornado shelters will be installed. Mr. Stone replied there are no proposed shelters provided. Chairperson Daley asked if reinforced rooms will be provided in the homes. Mr. Stone answered there are options for homeowners to buy from third parties. Commissioner Crooks inquired where those shelters could be placed. Mr. Stone said some can be installed in garages or some are installed in backyards. Commissioner Crooks asked if that would be approved by the HOA. Mr. Stone the shelters could be discussed by the HOA board.

Commissioner Draskovich asked how the footings will be designed and how everything will be attached to the slab. Mr. Cheevers replied the lots will dictate how the construction is done. He said without knowing the topography completely, but he believes about seventy percent (70%) of the houses will be slab foundations. He added the stormwater study will also dictate how the site is developed too. At this point it is still preliminary and there are a lot of other moving parts.

Commissioner Draskovich asked if it is possible to install a cinderblock closet for storm shelters. He said there are lot of current homes without shelters, and he doesn't want people to skimp on safety. The City as whole cannot house a lot of families to protect other families. Mr. Cheevers responded that there are a lot of different products that can be installed in the garage and other options as well. He said he has built a lot of storm shelters and it is better to have the prebuilt units that meet federal requirements than people constructing their own. Mr. Stone said the shelters are cheap to ship in bulk and they don't want to price first time homebuyers out purchasing a home. Commissioner Draskovich said with the smaller lots, it will be more difficult to sell the potential buyer on a shelter to put in their yard if they don't have a lot of room dedicate to a shelter. He said he was just north of Moore, Oklahoma when the tornado hit, and Edgerton does not want to be on the news when many new homes don't have shelters and people are hurt or killed. Mr. Stone said there are 4-foot by 4-foot shelter to fit in garages or closets. He said Rausch Coleman are not experts in storm shelters and don't build a profit into that. He believes it is wiser to have the consumer look into their options and Rausch Coleman can make referrals to who they have used for installation purposes. Ms. Linn explained the 2006 building code that is currently adopted by the City of Edgerton does not require a safe room. Other versions of the code might. Mr. Stone stated Rausch Coleman has only done 1 other development that has storm shelters.

Commissioner Draskovich asked if the landscaping will be restricted and proportionate to the lot. Mr. Cheevers said typical street trees for the area will be used. They will select draught and salt (road salt) resistant species that have noninvasive roots. In the backyards, similar trees will be used so it can all be matching. Small bushes and day lilies could be possibly used, and the HOA will not restrict the landscaping that a homeowner can plant. He said there is an example of the HOA restrictions in the packet. Most of the restrictions are locations of accessory buildings and other property maintenance issues. He explained the HOA is not intended to be used for beautification of a private lot, but more about the common spaces and keeping the development neat and organized. Ms. Crow asked if there is a requirement to replace any landscaping placed by the developer. Mr. Cheevers replied there will be a warranty on the landscaping for the first year and homebuyers are not typically allowed to touch street trees. Commissioner Crooks asked who maintains the street trees. Mr. Cheevers said it is the property owner who is to maintain the right-of-way including the trees. Ms. Crow said the common areas would be maintained by the HOA.

Commissioner Draskovich inquired as to how the floodplain area and the greenspace will be made to fit the community. Mr. Gasper replied right now, they will let the area naturally grow. Some communities do mow them to use as a park area or open greenspace. Chairperson Daley inquired if the detention ponds are actual ponds. Mr. Gasper replied none of them are actual ponds.

Commissioner Draskovich asked with the current status of mortgage rates if Rausch Coleman will build once the lot is sold or how far out are they going to build. Mr. Cheevers answered at this moment in Paola, they will start with twelve (12) to fifteen (15) houses and construct them up to installing sheetrock. That is the most volatile stage currently as windows and like items are needed to keep the price firm. It also helps to make sure appliances are available and the house can be closed on in time to lock in a rate for the buyer. He explained the ideal time frame is sheetrock to closing in sixty (60) days. There are some promotions they do where they will pay up to \$4,000 in closing costs and buying down interest rates. Rausch Coleman tries to keep the buyer locked in at a certain rate. Mr. Cheevers said those promotions can also be used to entice buyers. He stated realtors are crucial to help them to help handle the market. Mr. Stone said he used to work on the mortgage side. He said they break it up into tiers and that helps the first-time home buyer qualified. There are ways Rausch Coleman can help as well. They will go to local lenders to help if they can get buyer qualified and they are sensitive to as where mortgage rates are.

Commission Draskovich said it seems that Rausch Coleman is proactive with getting houses sold. Edgerton is a growing community and bringing in families is important, but he does not want to see them in a sink or swim situation. He also does not want to see twenty (20) to thirty (30) homes sold to a company and having blocks of rentals. Mr. Stone said profit margins are what drive those options and investors do not increase profit margins, so they do not want to sell to a rental company either.

10. **CONSIDER APPLICATION PUD2022-01 FOR A PLANNED UNIT DEVELOPMENT CONCEPTUAL PLAN FOR 80.4 ACRES LOCATED ON THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD** Applicant is Jesse Fulcher, Agent of Rausch Coleman Homes, Developer.

Commissioner Draskovich moved to recommend approval of Application PUD2022-01 with the stipulations outlined by City staff to the Governing Body. Commissioner Crooks seconded the motion. Application PUD2022-01 was recommended for approval with the stipulations outlined by City staff, 3-0.

Ms. Crow stated both the rezoning and conceptual plan will be presented to the City Council on August 11, 2022.

11. **FUTURE MEETING REMINDERS** Chairperson Daley stated the next regular session of the Commission is scheduled for August 9, 2022 at 7:00 PM.

Ms. Crow informed the Commission that there will be a Board of Zoning Appeals meeting on September 13, 2022 at 6:30 PM prior to the regularly scheduled Commission meeting.

12. **ADJOURN** Commissioner Crooks moved to adjourn the meeting. Commissioner Draskovich seconded the motion. The meeting was adjourned at 9:28 PM.

City Council Action Item

Council Meeting Date: August 11, 2022

Department: Community Development

Agenda Item: Consider Ordinance No. 2114 Adopting the Recommendation of the Edgerton Planning Commission to Approve Application PUD2022-01 for a Planned Unit Development Concept Plan for 80.4 Acres of Land Located at the Southwest Corner of 207th Street/Braun Street and 8th Street/Edgerton Road in Edgerton, Kansas.

Background/Description of Item: The City of Edgerton has received Planned Unit Development (PUD) Application PUD2022-01 from Jesse Fulcher, applicant representative for the owners, Dennis L. Dwyer, Vickie J. Dwyer, David L. Dwyer and Kendra L. Dwyer, and developer Rausch Coleman Homes. This request is to approve a Planned Unit Development Concept Plan for 80.4 acres located southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road in Edgerton, Kansas.

The parcel was annexed into the City of Edgerton on April 14, 2022. Rezoning application ZA2022-01 requesting rezoning from Johnson County RUR to City of Edgerton PUD will also be heard at the August 11, 2022 Council Meeting.

The project acreage is divided as follows:

- Residential lots - 48.2 acres
 - Green Space - 9.7 acres
 - Storm Drainage - 3.4 acres
 - Dedicated right of way - 19.1 acres.
- Total – 80.4

Proposed project details include:

- Homes in the subdivision will be 3-4 bedrooms with 2-3 bathrooms, ranging in size from 1,300 to 2,400 square feet.
- All homes will have a 2 or 3 car garage.
- All front facades will be 100% masonry on the first floor
- There will be a Homeowner's Association (HOA) with a Declaration of Covenants, Conditions and Restrictions (CCR's) that owners within the subdivision must abide by.
- One 1.5" - 2" caliper tree shall be planted in the front yard of every lot.
- Along the exterior of the subdivision, trees will be planted every 40 feet along 8th Street/Edgerton Road and 207th Street/Braun.
- Home prices are anticipated to be between \$275,000 and \$350,000

- The applicant is proposing four (4) phases of development as follows:
 - Phase I - eighty-one (81) lots
 - Phase II - seventy (70) lots
 - Phase III - sixty-one (61) lots
 - Phase IV – final phase - sixty-three (63) lots

As is noted in the City of Edgerton’s Unified Development Code, the purpose of a PUD is to encourage and allow a more creative and imaginative project design that is possible under standard district zoning regulations. The flexibility allowed when designing a PUD results in a community which can include more green space for recreational activities, walking trails, playgrounds, etc.

The applicant’s Conceptual Plan contains the following setbacks as compared to the standard requirements for R-1 Single-Family Residential:

	Standard R-1	Proposed PUD2022-01
Interior Lot Width	70 feet	50 feet
Front Yard Setback	35 feet	28 feet
Rear Yard Setback	22 feet	20 feet
Side Yard Setback	9 feet	5 feet
Corner Yard Setback	20 feet	15 feet

The applicant has requested a departure from the standard lot width for R-1 single family residential development of seventy (70) feet as some of the interior lots in the subdivision are fifty (50) feet wide. The UDC requires that perimeter lots of a PUD match the width or depth of adjacent properties. This development meets that requirement. As a balance to the narrower lots on the interior of the subdivision, the applicant has included a ten (10) foot walking trail along 207th/Braun Street and 8th Street/Edgerton Road, a playground area in the center of the development and proposed sidewalks throughout.

In addition to the lot width and setback deviations, the applicant has requested a departure from the PUD requirement of sixteen (16) feet between single family detached dwellings. The applicant is requesting the spacing between the residential units be ten (10) feet with each dwelling unit having a five (5) foot side yard setback with setbacks being measured to the exterior building wall. This would allow overhangs (eaves) to encroach into the setback. The City’s contracted building official review has noted that all aspects of the building, eaves included, needs to be a minimum of 10 feet apart, unless fire rated materials, such as cement fiberboard, are used in construction.

As is noted in Article 6, Section 6.1(C)(9)(b), departure from any requirement specified in this UDC or other City ordinances and regulations is a privilege and shall be granted only upon recommendation of the Planning Commission and approval by the Governing Body. Both staff and the Planning Commission recommend approval of departure from the standard R-1 lot sizes for this project and the standards for setback distance as long as fire rated materials are used in construction.

On July 12, 2022, the Planning Commission held a Public Hearing regarding this Concept Plan request and voted 3-0 to recommend approval of Application PUD2022-01 subject to the following stipulations:

1. All infrastructure requirements of the City are met.
2. All requirements of the City for a PUD are met.
3. Planning Commission recommendation to grant the departure from Planned Unit Development standards for setback distance on side yards between residential units as long as fire rated materials are used in construction.

Copies of the staff report and draft minutes are included with this packet. Staff received no further public comment for this application following Planning Commission action on July 12, 2022.

The City Attorney has prepared the enclosed ordinance approving the recommendation of the Planning Commission based on the Planning Commission staff report.

Related Ordinance(s) or Statue(s): K.S.A. 12-715b, K.S.A. 12-741, et. Seq. to K.S.A. 12-771 – Establishment of the Unified Development Code; 12-757 – Zoning Amendments

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approval of Ordinance No. 2114 Adopting the Recommendation of the Edgerton Planning Commission to Approve Application PUD2022-01 for a Planned Unit Development Concept Plan for 80.4 Acres of Land Located at the Southwest Corner of 207th Street/Braun Street and 8th Street/Edgerton Road in Edgerton, Kansas.

Enclosed:

- Ordinance No. 2114
- Staff Report from July 12, 2022 Planning Commission Meeting including Application ZA2022-01
- Draft minutes from the July 12, 2022 Planning Commission Meeting are included with Agenda Item 8 - Rezoning Application ZA2022-01

Prepared by: Katy Crow, Development Services Director

ORDINANCE NO. 2114

AN ORDINANCE ADOPTING THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE THE PLANNED UNIT DEVELOPMENT (PUD) CONCEPTUAL PLAN FOR 80.4 ACRES LOCATED AT THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD.

WHEREAS, the purpose of the Planned Unit Development regulations of the Edgerton Unified Development Code is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations; and

WHEREAS, pursuant to those regulations, an applicant is required to submit a request for approval of a Conceptual Plan to the Zoning Administrator, which is in turn submitted to the Planning Commissioner for public hearing, review and recommendation; and

WHEREAS, the Zoning Administrator and the Planning Commission of the City of Edgerton, Kansas received a request for approval of a Conceptual Plan from Jesse Fulcher, applicant representative for the owners, Dennis L. Dwyer, Vickie J. Dwyer, David L. Dwyer and Kendra L. Dwyer, and developer, Rausch Coleman Homes, for a parcel of land totaling approximately 80.4 acres, generally located at the southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road in Edgerton, Kansas along with the required Planned Unit Development fees; and

WHEREAS, a public hearing was noticed and held in front of the Planning Commission on July 12, 2022, as required by the Uniform Development Code; and

WHEREAS, following such hearing the Planning Commission recommended that the Conceptual Plan be approved subject to certain conditions; and

WHEREAS, the Edgerton City Council wishes to take action on that recommendation.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

Section 1. That the Conceptual Plan for Planned Unit Development for the following legally described property generally located at the southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road, in Edgerton, Kansas is hereby approved, subject to the conditions below:

The North Half of the Northeast Quarter of Section 13, Township 15 South, Range 21 East, Johnson County, Kansas, EXCEPT that part described as follows:

All that part of the Northeast Quarter of Section 13, Township 15, Range 21, Johnson County, Kansas, more particularly described as follows:

Beginning at a point on the East line of said Northeast $\frac{1}{4}$ of said Section 13 and 376.40 feet South of the Northeast corner thereof; thence West a distance of 35.00 feet; thence South parallel to the East line of said Northeast $\frac{1}{4}$ a distance of 200 feet; thence

East a distance of 35.00 feet; thence North along the East line of said Northeast ¼ a distance of 200.00 feet to the point of beginning, all subject to that part thereof dedicated for existing public road right-of-way containing 0.161 acres, including 0.092 acres, more or less, of existing public road right-of-way and 0.069 acres, more or less, of new right-of-way.

Section 2. The above approval for the Concept Plan for Planned Unit Development is expressly conditioned on the following:

- a) Compliance with the stipulations stated in the Planning Commission Staff Reports for Application PUD2022-01.
- b) Adherence to the requirements outlined in the Development Agreement for this parcel as mutually agreed to by the Developer and the City.
- c) The submission and approval of a Final Plan and Final Plat as required by section 6.4 of the Unified Development Code.
- d) Strict adherence to all requirements of Article 6 of the Edgerton Unified Development Code, the remainder of the Unified Development Code, city ordinances and regulations.

Section 3. That City Staff is hereby directed to reflect said approval on the City's Official Zoning map and other City records.

Section 4. This ordinance shall take effect from and after its publication once in the official city newspaper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF THE CITY OF EDGERTON, KANSAS ON THE 11th DAY OF AUGUST, 2022.

CITY OF EDGERTON, KANSAS

By: _____
Donald Roberts, Mayor

ATTEST:

Christopher Clinton, Deputy City Clerk

APPROVED AS TO FORM:

Lee Hendricks, City Attorney

TIMBER CREEK SUBDIVISION

Application PUD2022-01

Southwest Corner of 207th Street/Braun Street and 8th Street/Edgerton Road

QUICK FACTS

PROJECT SUMMARY AND REQUESTED APPROVALS

The Applicant requests approval of a Planned Unit Development Conceptual Plan for single-family residential development on a parcel located at the southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road.

A Public Hearing is required for this application.

Owner and Applicant

Dennis and David Dwyer, property owners. Jesse Fulcher, agent for Rausch Coleman Homes, Developer and Applicant.

Zoning and Land Use

The applicant has requested rezoning from Johnson County RUR to City of Edgerton PUD (Planned Unit Development) to be heard at the July 12, 2022 Planning Commission Meeting.

Legal Description

The north ½ of the NE ¼ of Section 13, Township 15 South, Range 21 East, in the City of Edgerton, Johnson County, Kansas.

Parcel Size

80.4 acres

Staff Report Prepared by

Chris Clinton



BACKGROUND

Subject Site

The parcel is located within the Bull Creek watershed and was annexed into the City of Edgerton on April 14, 2022.

Utilities and service providers:

- a. Water Service – City of Edgerton.
- b. Sanitary Sewer - City of Edgerton.
- c. Electrical Service - Everygy.
- d. Gas Service – Kansas Gas Service.
- e. Police protection is provided by the City of Edgerton through the Johnson County Sheriff's Office.
- f. Fire protection is provided by Johnson County Fire District #1.

Site History and Past Approvals

This parcel was annexed into the City on April 14, 2022. At the July 12, 2022 Planning Commission meeting, the applicant will request the subject parcel be rezoned to PUD (ZA2022-01) in anticipation of the submittal of this Planned Unit Development (PUD) Conceptual Plan Application. Prior to that rezoning application, the City had received no other applications for development on this parcel. The property has been undeveloped and used for agricultural purposes at least since 2006 per Johnson County AIMS. Prior to the annexation of the property, the parcel was zoned Johnson County Rural (RUR).

Proposed Use

Article 6 of the Edgerton Unified Development Code (UDC) states that the purpose of a PUD is to encourage and allow a more creative and imaginative design of land developments than is possible under standard district zoning regulations. PUDs are intended to afford the developer substantial flexibility when planning and designing a development proposal.

This PUD Conceptual Plan request is for the development of a single-family residential subdivision. In today's ever-changing market, the PUD is an important tool to help developers and home builders design projects that balance the rising fixed costs (such as extension of road and utility infrastructure) and rising costs of building materials with the changing preferences of the home buyer for lower yard maintenance or more close-knit, walkable neighborhoods which include amenities.

The applicant is proposing 275 single-family residential lots to be developed in four (4) phases as follows:

- Phase I - eighty-one (81) lots
- Phase II - seventy (70) lots
- Phase III - sixty-one (61) lots
- Phase IV – final phase - sixty-three (63) lots

The project acreage is divided as follows:

- Residential lots - 48.2 acres
- Green Space - 9.7 acres
- Storm Drainage - 3.4 acres
- Dedicated right of way - 19.1 acres.
- Total – 80.4

The developer is presenting the initial Conceptual Plan at this time. A Final Development Plan and Final Plat is required prior to the commencement of development on the site, with both of those items also being reviewed and approved by the Planning Commission and Governing Body.

Project Timeline

- Application submitted to the City: May 27, 2022
- Public Hearing Notice Published: June 22, 2022
- Public Hearing Notices Mailed: June 22, 2022 (sent to 44 properties)

PUD REVIEW

Staff has reviewed the PUD application with respect to the Edgerton UDC, specifically Section 6.1.C, *Standards for Planned Unit Development* and Section 6.3, *Conceptual Plan and Preliminary Plat Submission Data*. Review comments are listed below.

Section 6.1.C – Standards for Planned Unit Development

1. **Comprehensive Plan.** A Planned Unit Development must conform with the objectives of the Comprehensive Plan of Edgerton.
 - a. *There are two goals outlined in the City's Comprehensive Plan that this development would achieve:*
 - i. *Promote a balanced and sustainable community by providing a mix of different types of residential, commercial, and industrial development.*
 - ii. *Provide a range of housing types and price ranges for all citizens of Edgerton.*
 - iii. *Ensure that new subdivisions are integrated into an overall neighborhood design concept where diversity of housing is encouraged, the streets are pedestrian-friendly, and each neighborhood has a center public park or square.*

This Conceptual Plan represents the first new home subdivision development in Edgerton in approximately 20 years. The applicant's design includes green space, a walking trail, a neighborhood pocket park and sidewalk on one side of each street. The proposed dwelling units are diverse in floor plan and represent a variety of housing types. Standard has been met.

2. **Compatibility.** The uses permitted in a Planned Unit Development must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties.
The parcel this development is proposed on is surrounded by other single-family residential parcels. Standard has been met.

3. **Net Density.** The net density of the Planned Unit Development is not required to precisely correspond with the normal net density of a traditional zoning district, but instead should reflect complementary building types and architectural design. The Planning Commission shall determine net density and floor area through the Conceptual Plan review.
The developer has proposed a variety of lot sizes within this development, and the perimeter lots are equivalent to the required lot sizes in Edgerton R-1 single-family residential zoning. Narrower lot sizing is included on the interior of the development which provides for an increase in density, balanced by the inclusion of green space and walking trails. The applicant has provided cutsheets and elevations of the dwelling styles proposed to be constructed as part of this subdivision project. Architecturally the residences are consistent with current residential development

in Edgerton and the building types are complimentary within the subdivision. Standard has been met.

4. The Planned Unit Development site shall be under a single ownership or unified control. Unified control shall mean that the various owners of adjacent site join to submit a unified application for a PUD.

The submitted application has been signed by the current property owners and is for one parcel of land. Standard has been met.

5. **Space Between Buildings.** The minimum horizontal space between buildings shall be:
 - b. Sixteen (16) feet between single-family detached dwellings.

The applicant has requested the spacing between the residential units be ten (10) feet as each dwelling unit will have a five (5) foot side yard setback with setbacks being measured to the exterior building wall, allowing overhangs (eaves) to encroach into the setback. The City's contracted building official review has noted that all aspects of the building, eaves included, needs to be a minimum of 10 feet apart, unless fire rated materials, such as cement fiberboard, are used in construction.

Pursuant to Article 6, Section 6.1(C)(9)(b), departure from any requirement specified in this UDC or other City ordinances and regulations is a privilege and shall be granted only upon recommendation of the Planning Commission and approval by the Governing Body. Staff recommends the Planning Commission grant this departure from standards for setback distance as long as fire rated materials are used in construction.

6. **Yards.** The minimum required yards in a PUD shall be:
 - a. The required yards along the periphery of the Planned Unit Development shall be at least equal in width or depth to that of the adjacent zoning district.

The applicant has shown that all of the periphery lots meet this requirement either in width or depth. Standard has been met.

- b. The minimum required side yards shall be consistent with the space standards listed in item 5a-d stated above.

As noted in 5.b. above, the applicant has stated the spacing between the residential units will be ten (10) feet as each dwelling unit will have a five (5) foot side yard setback with roof overhang in the side yard setback. Staff recommends the Planning Commission grant this departure from standards for setback distance as long as fire rated materials are used in construction.

- c. The minimum front and rear yard shall be determined by the review of the Planning Commission and approval of the Governing Body and shall be based on design or construction features that are deemed both architecturally and environmentally superior, are consistent with the provision of amenities, and are in strict compliance with Edgerton's building, fire health, and other applicable codes, and/or contribute to the increased health, safety, and welfare of existing and future residents of Edgerton.

The applicant's Conceptual Plan contains the following setbacks as compared to the standard requirements for R-1 Single-Family Residential:

	Standard R-1	Proposed PUD2022-01
Interior Lot Width	70 feet	50 feet
Front Yard Setback	35 feet	28 feet
Rear Yard Setback	22 feet	20 feet
Side Yard Setback	9 feet	5 feet
Corner Yard Setback	20 feet	15 feet

As is noted in the description of a PUD, utilizing this type of development tool allows the developer more flexibility in lot sizing within the development. In addition, the existence of a Homeowner's Association (HOA) with Covenants, Conditions and Restrictions (CCRs), helps enforce lot maintenance and parking standards. Staff supports the departure from standard R-1 lot sizes for this project.

7. **Parking Standards.** Adequate parking shall be provided and shall be in general conformance with the parking regulations provided for in other section of this Ordinance unless changes are warranted by the particular characteristics of the proposed Planned Unit Development.
 - a. Additional parking space for guests, customers, the handicapped, recreational vehicles, and other common storage and/or parking uses in Planned Unit Developments, shall be required by the Governing Body, acting upon the recommendation of the Planning Commission, if warranted by the particular characteristics of the proposed Planned Unit Development.

Article 16 of the UDC requires single-family dwellings have three (3) parking spaces with one (1) being inside a garage. The Conceptual Plan overview indicates that each of the proposed dwellings will have an attached garage for two (2) or three (3) cars. The provision of parking in an attached garage and on a driveway meets the requirements for the minimum amount of parking required by the UDC. Additionally, the HOA has CCRs in place which provide additional parking requirements for the development. Standard has been met.

8. **Traffic.** The PUD must incorporate adequate provisions to provide ingress and egress designed to minimize both internal and external traffic hazards and congestion.

The applicant has submitted a Traffic Impact Study (TIS). The City will use this study and the proposed development phasing to determine the scope and timing of any improvements to the adjacent road network (see Item #5 on page 8 of this Staff Report). Standard has been met.

9. **Design Standards.** The basic design standards for a PUD are provided in this UDC and are known as the "Subdivision Regulations."
 - a. **Use Standards.** The standards for the allowable use of building and land are provided throughout the various use districts of this UDC.
 - b. **Departure From Standards.** The Planned Unit Development may depart from strict conformance with the required density, dimension, area, height, bulk, use and specific content regulations of this Ordinance to the extent specified in the preliminary plat and documents authoring the Planned Unit Development so long as the Planned Unit Development provides tangible benefits to the neighborhood or community in which it is

located. These benefits shall be in the form of provisions of amenities, design excellence, and general compatibility with neighboring properties. The waiver of any requirement shall be the direct cause of accrual of benefits to the residents of the development as well as to the general community. Departure from any requirement specified in this UDC or other City ordinances and regulations is a privilege and shall be granted only upon recommendation of the Planning Commission and approval by the Governing Body.

The applicant has requested a departure from the standard lot width for R-1 single-family residential development as some of the proposed lots are fifty (50) feet wide, compared to the minimum requirement for R-1 residential of seventy (70) feet in width. The benefits proposed by the developer to counter the narrower lot widths include a 10-foot trail along 207th Street/Braun Street and 8th Street/Edgerton Road, a playground area in the center of the development and proposed sidewalks throughout. Staff supports the recommendation and approval of departure from standard R-1 lot sizes for this project.

Section 6.3 – Conceptual Plan and Preliminary Plat Submission Data

1. **Conceptual Plan and Plat.** A drawing of the Planned Unit Development shall be prepared at a scale that provides for a clear understanding of the way in which the property is intended to be developed. The Plan shall indicate the concept of the development with refinements to indicate the overall land use pattern, general circulation system, open space or park system, and major features of the development together with a set of proposed restrictions, conditions, and covenants. The Plan must include:
 - a. Boundary lines and dimensions of the subject site.
 - b. Existing and proposed easements – general location and purpose.
 - c. Streets on, adjacent, or proposed for the tract, including all rights-of-way and pavement widths.
 - d. Land use pattern proposed for the subject site.
 - e. Map data – name of development, name of site planner, north point, scale, date of preparation.

As stated in Article 6, Section 6.2.C, the Conceptual Plan is prepared to serve in lieu of a preliminary plat. The applicant has provided a Conceptual Plan that meets all of the requirements noted in Section 6.3(1) above. A draft copy of CCRs related to the HOA has also been provided. Requirement has been met.

2. **Site Data.** A list of pertinent site data, including:
 - a. Description and quantity of land uses. ***48.2 acres for residential lots, 19.1 acres of dedicated right-of-way, 3.4 acres of drainage, 8.7 acres of floodplain, and 9.7 acres of greenspace.***
 - b. Acreage of site. ***80.4 acres.***
 - c. Number of dwelling units proposed. ***81 lots in Phase I, 70 lots in Phase II, 61 lots in Phase III, and 63 lots in Phase IV; for a total of 275 residential lots.***
 - d. Area of industrial, commercial, institutional, recreational, and number of buildings proposed. ***48.2 acres of residential with 275 single-family homes. No commercial, institutional, recreations, or industrial buildings.***
 - e. Densities of residential area.
 - i. ***The Edgerton UDC defines the gross density as the numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land (in acres) within a development. This would include all non-residential land uses and private streets of the***

- development, as well as rights-of-way of dedicated streets. The applicant has stated the gross density for this project is 3.42 dwelling units per gross acre of land.*
- ii. *The Edgerton UDC defines the net density, as the numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open spaces and associated recreational facilities within the area. The result is the number of dwelling units per net residential acre of land. The net density calculation, excluding rights-of-way of publicly dedicated and private streets, is 5.71.*
- f. Housing mix. *Applicant has provided cut sheets and elevations which represent the available floor plans for this development. Those have been included with this Staff Report.*
 - g. A statement indicating how the proposed Planned Unit Development corresponds to and complies with objectives for Planned Unit Developments as previously stated in the Article. *The applicant has included this information in their cover letter, stating that the subdivision will allow for the construction of single-family homes, which is the predominant land use in this area. The development will be compatible and harmonious with surrounding land uses. The preserved stream channel and the inclusion of interior greenspaces for the residents, will make this a unique development that will include recreational benefits for the residents.*
 - h. Development schedule indicating:
 - i. Stages in which project will be built with emphasis on area, density, use, and public facilities such as open space to be developed with each stage. Overall design of each stage shall be shown on the plat and through supporting graphic material. *The provided concept plan clearly delineates the phases of development. The table on the plan also shows how many dwellings are to be constructed for each phase.*
 - ii. Approximate dates for beginning and completion of each stage. *The applicant has provided a letter outlining the timeline for when development is estimated to begin and how the project will be phased. The applicant expects to sell four (4) to eight (8) homes per month until the development is complete, with an estimated project completion time of five (5) years.*
 - iii. If different land use types are to be included within the Planned Unit Development, the schedule must include the mix of uses anticipated to be built in each stage. *Not applicable.*
3. **Environmental Information.** Data identifying existing natural and environmental site conditions, including:
- a. **Topography.** A topographic map, if possible underlying the concept plan, at a minimum of ten (10) foot contour intervals. *The developer has provided a topographical map of the existing contours, but the proposed contours have not been provided. The developer has stated a grading plan will be submitted with the Final PUD. The applicant acknowledges that the final grade could change from the current grade and there may be an impact to the infrastructure design.*

- b. **Flood Plain.** Information from the most current source specified by the City indicating the location and extent of the regulatory flood plain. ***The flood plain information is displayed on the concept plan and the topographical map.***
 - c. **Soils.** Information from the most current U.S. Department of Agriculture – Soil Conservation Services Soils Catalog indicating the location and species of soils. If said information is not available, soil borings may be submitted. ***This information is provided on the concept plan.***
 - d. Location and extent of existing vegetation. ***An aerial map was providing showing the existing vegetation.***
 - e. A depiction of existing surface drainage patterns and proposed retention and detention areas. ***The applicant has provided a memo outlining how the site currently drains and how it is proposed to be handled in the future. However, a drainage map has not been provided. The developer will provide a grading plan with the Final PUD as the currently proposed grade could change which would impact how the stormwater is handled onsite.***
4. **Utilities.** Statement indicating that sanitary sewer, storm sewer, and water are directly available to the site, or if well and septic systems are proposed, a statement from a licensed professional engineer indicating that the proposed development can be suitably served by such systems.
- a. ***Today there is no sanitary sewer available to the site. There is an existing sanitary sewer main that runs north/south along the east side of the existing railroad tracks and South Lake. The applicant is engaged in ongoing discussions with the City to extend the Sanitary Sewer to the site for development.***
 - b. ***The developer has indicated that the stormwater will be conveyed in the same direction it currently moves now. A preliminary stormwater drainage memo has been provided. A full stormwater drainage study should be provided at the time deemed appropriate by the City. The memo and study should be sealed.***
 - c. ***An engineering analysis will be performed to review the impact of proposed development to the existing water system and to determine if any upgrades to the system are needed. In their proposal the applicant has outlined how water will be distributed within the development.***

Update plans as needed.

5. **Traffic Analysis.** A study providing information on the existing road network, and adjunct vehicle volumes, and the effect the proposed Planned Unit Development will have on the existing (or improved) road network.
- The proposed development would have access via one entrance from 8th Street/Edgerton Road and two entrances via 207th Street/Braun Street. Interior roads and sidewalks will be provided for vehicular and pedestrian circulation throughout the development.***
- a. ***A review by the City Engineer indicates that the right-of-way for the cul-de-sacs does not appear to be large enough. The Fire Code requires a 48-foot radius, however only fifty (50) foot radius of right-of-way is provided. Update plans as needed.***
 - b. ***The TIS has indicated that from a safety and operational standpoint, no auxiliary lanes are warranted based upon the existing and development conditions. Additionally, the TIS indicates that 8th Street/Edgerton Road will***

need to be upgraded from gravel to a paved 24-ft wide roadway. The City will use this study and the proposed development phasing to determine the scope and timing of any improvements to the adjacent road network. City review and approval of infrastructure plans is required prior to commencement of construction.

Update plans as needed.

6. **Tax and School Impact.** A study indicating the sources and amounts of revenue to be generated to various governmental jurisdictions as a result of the development, expected school-age children generation, and estimated cost of providing service to the development that will be absorbed by the City and the affected school districts.
 - a. ***The applicant has provided a memo with estimated revenue for each taxing jurisdiction. The applicant estimates one home sold at \$275,000 will generate \$2,116 based on the current mill levy. The applicant explained this is an estimate and it is difficult to predict the exact number of school age children that will live in this development nor can the applicant account for any additional funding the school district might receive from a potential increase in the number of students enrolled.***
7. **Market Analysis.** At the request of the Planning Commission, and depending upon the types of land uses proposed to be included in a Planned Unit Development, information may be provided from one (1) or more of the following categories:
 - a. Planned Unit Developments proposed to contain any residential uses shall require submission of at least the following market data:
 - i. Details about the proposal pertaining to: housing types, floor area of dwellings, estimated price ranges, number of bedrooms, densities, and amenities included.
The applicant has stated the single-family homes will 3-4 bedroom with 2-3 bathrooms with 2 or 3-car garages. The homes will range in size from 1,300 to 2,400 square feet and are estimated to be sold from \$275,000 to \$350,000
 - ii. Total anticipated demand in the City for the type of unit(s) proposed shall be estimated for the immediately subsequent five (5) year period. The percent of that demand which would be absorbed by the Planned Unit Development shall be identified. Methods used in determining the five (5) year demand shall be indicated.
In 2021, a Johnson County Community Housing Study indicated an aspirational growth strategy for the City of Edgerton of 21 units per year through 2030, equating to an anticipated total need of 205 dwellings over the 10 year period. The anticipated rate of construction by the applicant is 4-8 homes per month starting in 2023 with the first closings occurring in the fourth quarter of that same year. As proposed, this project is slightly larger than the forecasted average annual need amount (275 vs. 205) and occurs at an accelerated buildout timeline of 5 years vs. 9 years.

General Comments

1. The City Engineer has stated that while a preliminary stormwater drainage memo has been provided, a full stormwater drainage study is required prior to submittal of a Final Plan. The memo and the study must be signed and sealed. ***Applicant Acknowledges.***
2. All references in the memos to "Flood Zone X – 0.1% Future Conditions" should be corrected to "Flood Zone X – 1% Future Conditions." ***Update plans as needed.***

NOTICE OF CITY CODES AND PERMITS

The Applicant is subject to all applicable City codes – whether specifically stated in this report or not – including, but not limited to, Zoning, Buildings and Construction, Subdivisions, and Sign Code. The Applicant is also subject to all applicable local, State, and Federal laws.

Various permits may be required in order to complete this project. Please contact the Building Codes Division of the Community Development Department for more information about City permits. The project may also be subject to obtaining permits and/or approvals from other local, County, State, or Federal agencies.

DOCUMENTS INCLUDED IN PACKET

Sheet #	Title	Date on Document
Application	Application for PUD2022-01	May 27, 2022
1	Overview Letter	June 23, 2022
3	Concept Plan	June 2022
4	Topographical Map	May 10, 2022
5	Aerial Plan	June 2022
6	Addison Cut Sheet	NA
8	Bridgeport Cut Sheet	NA
10	Camden Cut Sheet	NA
12	Fenway Cut Sheet	NA
14	Glenwood Cut Sheet	NA
16	Utility Memo	May 26, 2022
19	Drainage Memo	May 26, 2022
21	Property Tax Memo	June 27, 2022
23	Traffic Impact Study	May 2022
52	Draft of the Covenants, Conditions and Restrictions	May 2022

STAFF RECOMMENDATION

City Staff recommends approval of PUD Conceptual Plan **Application PUD2022-01** for the *Timber Creek Subdivision*, as submitted, subject to the following stipulations:

1. All infrastructure requirements of the City are met.
2. All requirements of the City for a PUD are met.
3. Planning Commission recommendation to grant the departure from Planned Unit Development standards for setback distance on side yards between residential units as long as fire rated materials are used in construction.

Note: For Application PUD2022-01 the Planning Commission will be recommending either approval or denial of the application to the Governing Body. If the Planning Commission recommends approval, the Application could be presented to the Governing Body as early as August 11, 2022.

NAME OF PLANNED UNIT DEVELOPMENT (PUD): Timber CreekLOCATION OR ADDRESS OF SUBJECT PROPERTY: SW Corner of Edgerton Road and W Braun StATTACH LEGAL DESCRIPTION TO THIS APPLICATION
(a Word document is also required and may be emailed to the Community Development Department)CURRENT LAND USE: AgCURRENT SITE OWNERSHIP: Dennis L Dwyer & Vickie J Dwyer - David L Dwyer & Kendra L Dwyer -
David Dwyer, Dennis Dwyer PHONE: 913-980-0078
Larry E Dwyer & Janine K Dwyer

COMPANY: _____ EMAIL: _____

MAILING ADDRESS: 39715 W 199th St Edgerton, KS 66021
Street City State ZipPROPOSED SITE OWNERSHIP: Rausch Coleman Homes PHONE: 844-472-4663COMPANY: Rausch Coleman Homes EMAIL: jesse.fulcher@rch.comMAILING ADDRESS: 4058 N College Ave Ste 300 Fayetteville, AR 72703
Street City State ZipENGINEER/ARCHITECT'S NAME(S): Ben Gasper PHONE: 913-444-9615COMPANY: SMH Consultants EMAIL: bgasper@smhconsultants.comMAILING ADDRESS: 5201 Johnson Dr Suite 405 Mission, KS 66205
Street City State ZipSIGNATURE OF OWNER OR AGENT: Dennis L Dwyer, Vickie J Dwyer
If not signed by owner, authorization of agent must accompany this application.Larry E Dwyer Kendra L Dwyer
David L Dwyer Janine K Dwyer**FOR OFFICE USE ONLY**Case No.: PUD- 2022-01 Amount Paid: \$750 Date Paid: 05/27/22 Receipt #: 64008Planning Commission Hearing Date: July 12, 2022 Council Meeting Date: 08/12/2022Received By: Christopher Winton

v4.26.22

PROPERTY OWNER NOTIFICATION AFFIDAVIT

Case No.: PUD- 2022-01

I, Ben Burton, of lawful age being first duly sworn upon oath, state:

That I am the agent (agent, owner, attorney) for the property for which the application was filed and did, not later than twenty (20) days prior to the date of the public hearing scheduled before the Edgerton Planning Commission, mail certified notice to all persons owning property within the notification area (two hundred (200) feet in the City of Edgerton) in compliance with the Unified Development Code.

These notices were mailed on the 17 day of June, 2022.



Signature of Agent, Owner or Attorney

Subscribed and sworn to before me this 17 day of June, 2022.



Notary Public

My Commission Expires: 3-5-2023 (SEAL)
Date





June 23, 2022

Beth Linn
City of Edgerton
404 East Nelson

RE: Edgerton and Braun Subdivision

Mrs. Linn,

I'm pleased to announce plans for a new single-family development at the southwest corner of Edgerton Road and Braun Street. Timber Creek Subdivision will contain approximately 275 lots on 80.4 acres. Lots will range in size from 6,000 square feet to 9,500 square feet, with larger lots around the perimeter of the property. Greenspace will also be a significant part of this project, with approximately 1.1 acres of greenspace interior to the development and another approximately 10-acres of greenspace at the corner of Edgerton and Braun. The 10-acre property is being set aside to preserve an existing creek that runs through the property and to provide a natural area for passive recreation. Five-foot sidewalks will be provided along one side of every street.

Landscaping will be provided in two manners. Along the exterior of the subdivision, trees will be planted every 40-feet along Edgerton and Braun. This standard will include trees along the 10-acre greenspace and the smaller neighborhood greens interior to the development. Additionally, one (1) tree shall be planted in the front yard of every lot. All trees shall be 1.5-2" caliper tree at the time of planting.

A Declaration of Covenants, Conditions and Restrictions (CCR's) will be filed for the subdivision. These covenants will provide for the maintenance of all common property and obligate all property owners to abide by specific responsibilities. A draft of the CCR's is attached and provides among other things, membership and voting rights, assessments, maintenance of common property, use of lots, and enforcement measures. Community Association Management will serve as the management company and will be responsible for all day-to-day operations, such as enforcing violations, collecting dues, responding to homeowner inquiries, and overseeing vendors and maintenance. A direct contact with this company can be provided if needed.

Homes in the subdivision will be 3-4 bedroom with 2-3 bathrooms and all homes will have a 2 or 3-car garage. Building setbacks will be 28-feet along the street, 20-feet in the rear, and 5-feet on the sides. Corner lots will have a 15-foot side-street setback. All setbacks will be measured to the exterior building wall, allowing overhangs to encroach into the setback. House plans are attached and represent some of the plans scheduled for this development. All front facades will be 100% masonry up to the first floor plate.



Sales pace is expected to be 4-8 homes per month, starting in 2023 with the first closings in the fourth quarter of 2023. Sales price is anticipated to range between \$275,000 to \$350,000 for between 1,300-2,400 square feet. Timber Creek should generate a revenue of approximately \$80,000,000-\$100,000,000. According to the 2020 United States Census, the average number of children per family is 1.86.

Construction costs to develop the subdivision, which includes grading, storm sewer, water lines, sewer lines, sidewalks, paving, curb, and gutter are projected to be approximately \$10,000,000-\$15,000,000 for the entire project. The project is expected to be developed in four (4) phases over approximately 5 years.

The subject development was designed around an existing stream channel that provides a wonderful, focal point at the intersection of Edgerton Road and Braun Street. This greenspace will be further enhanced with new street trees. There are also many interior greenspaces and parkland to serve the residents of the community. The community will provide a variety of housing styles with diverse floorplans and exteriors.

As noted above, the most prominent, natural feature on this site is being preserved and enhanced to serve as an important component of the development plan.

Timber Creek will include a variety of lot sizes and floorplans, to create diversity in housing stock, while also providing a cohesive and coordinated development plan.

Providing smaller lots, although varied in size, allows for the most efficient use of land and utility infrastructure. There will be less linear feet of utility infrastructure serving each lot than what would be allowed under a conventional zoning district.

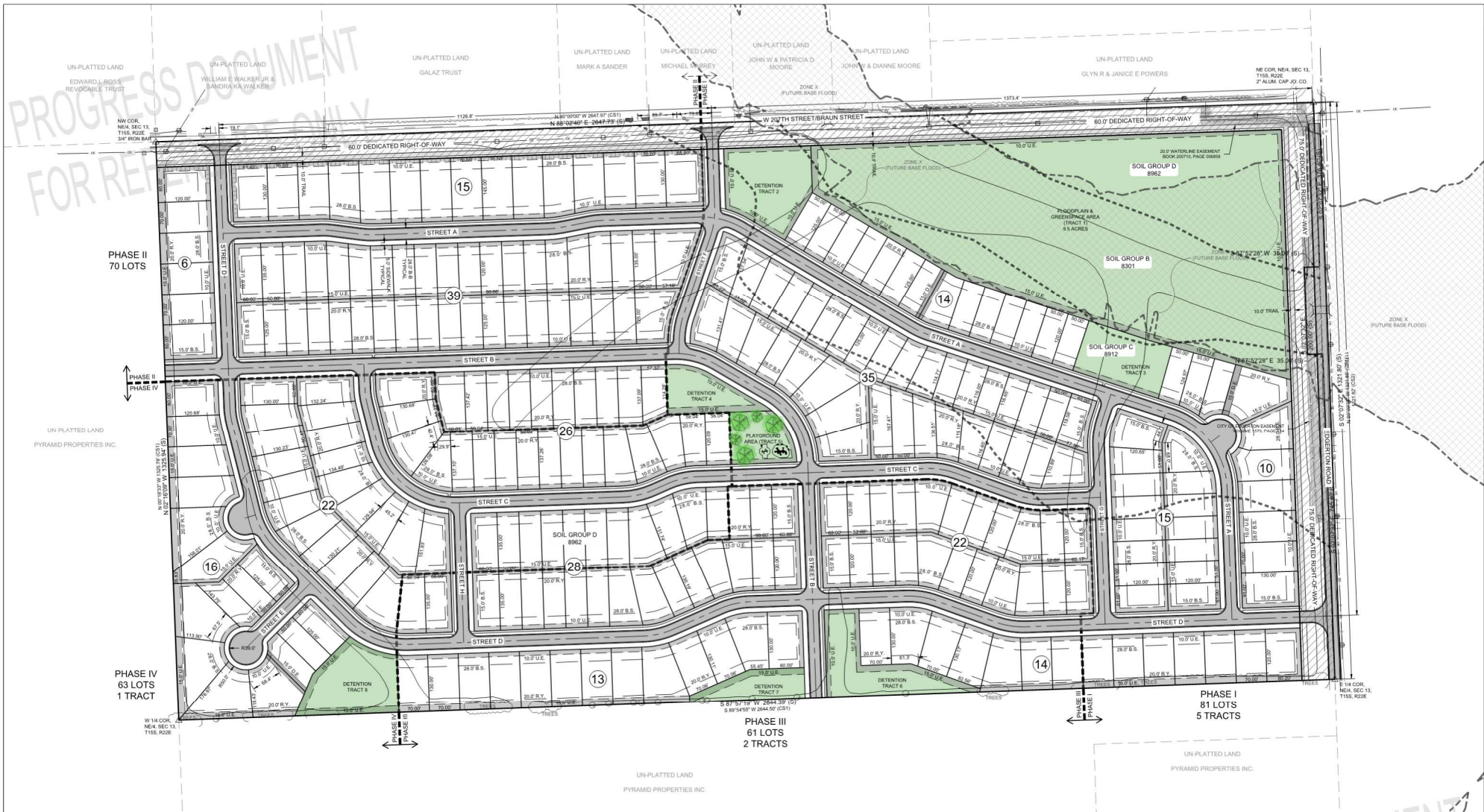
The subdivision will allow for the construction of single-family homes, which is the predominant land use in this area. Therefore, the development will be compatible and harmonious with surrounding land uses. Preservation of the existing stream channel and providing interior greenspaces for the residents will make this a unique development that will provide recreational benefits for the residents.

Please let me know if there is any additional information that you need.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jesse Fulcher", is located below the "Sincerely," text.

Jesse Fulcher
Director of Land Acquisitions and Planning



DESCRIPTION:
North Half of the Northeast Quarter of Section 13, Township 15 South, Range 21 East of the 6th PM, Johnson County, Kansas.

Subject to easements and restrictions of record.

Notes:
Aerial Image was flown with a UAV and is shown in approximate location and is for visual reference only.

A final grading plan will be included with the Final PUD. The applicant acknowledges the final grade could be different from the current grade which impacts infrastructure design.

Soil Type	Hydrologic Soil Group	Acres	Percent of Site
Vendigite Silty Loam	B	6.4	8.0%
Summit Silty Clay Loam	C	12.5	15.5%
Woodson Silty Loam	D	61.5	76.5%
Totals		80.4	100.0%

DEDICATED RIGHT-OF-WAYS
-207TH/BRAUN = 60.0'
-EDGERTON = 75.0'
RIGHT-OF-WAYS INTERNAL = 50.0'
MINIMUM CL CURVE RADIUS = 185.0'
CUL-DE-SAC/EYEBROW ROW RADIUS = 50.0'
CUL-DE-SAC MAX LENGTH = 209.5'
MAX BLOCK LENGTH = 1325.0'
DRAINAGE EASEMENTS = 15.0'

BUILDING SETBACKS
-FRONT YARD = 28.0'
-FY CORNER LOT = 28.0' & 15.0'
-SIDE YARD = 5.0'
-REAR YARD = 20.0'
UTILITY EASEMENT
-15.0' BACK OF LOTS
-10.0' ALONG INTERNAL ROW
DENSITY:
GROSS = 3.42 DWELLINGS UNITS PER GROSS ACRE
NET = 5.71 DWELLINGS UNITS PER NET ACRE

81 LOTS = PHASE I
70 LOTS = PHASE II
61 LOTS = PHASE III
63 LOTS = PHASE IV
275 TOTAL RESIDENTIAL LOTS

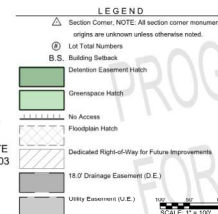
48.2 AC - LOTS
19.1 AC - DEDICATED ROW
3.4 AC - DRAINAGE
9.7 AC - GREENSPACE
80.4 AC - TOTAL

FLOODPLAIN = 6.7 ACRES
STREET PAVEMENT = 341,735 SF
SIDEWALK PAVEMENT = 91,580 SF
TRAIL PAVEMENT = 36,852 SF
CURB & GUTTER = 22,876 LF

OWNER:
DENNIS L DWYER
39715 W 199TH ST
EDGERTON, KS 66021

ALONG WITH DAVID & LARRY DWYER

DEVELOPER:
RAUSCH COLEMAN HOMES
JOHN STONE
4058 NORTH COLLEGE SUITE
300, FAYETTEVILLE, AR 72703
479-455-9090



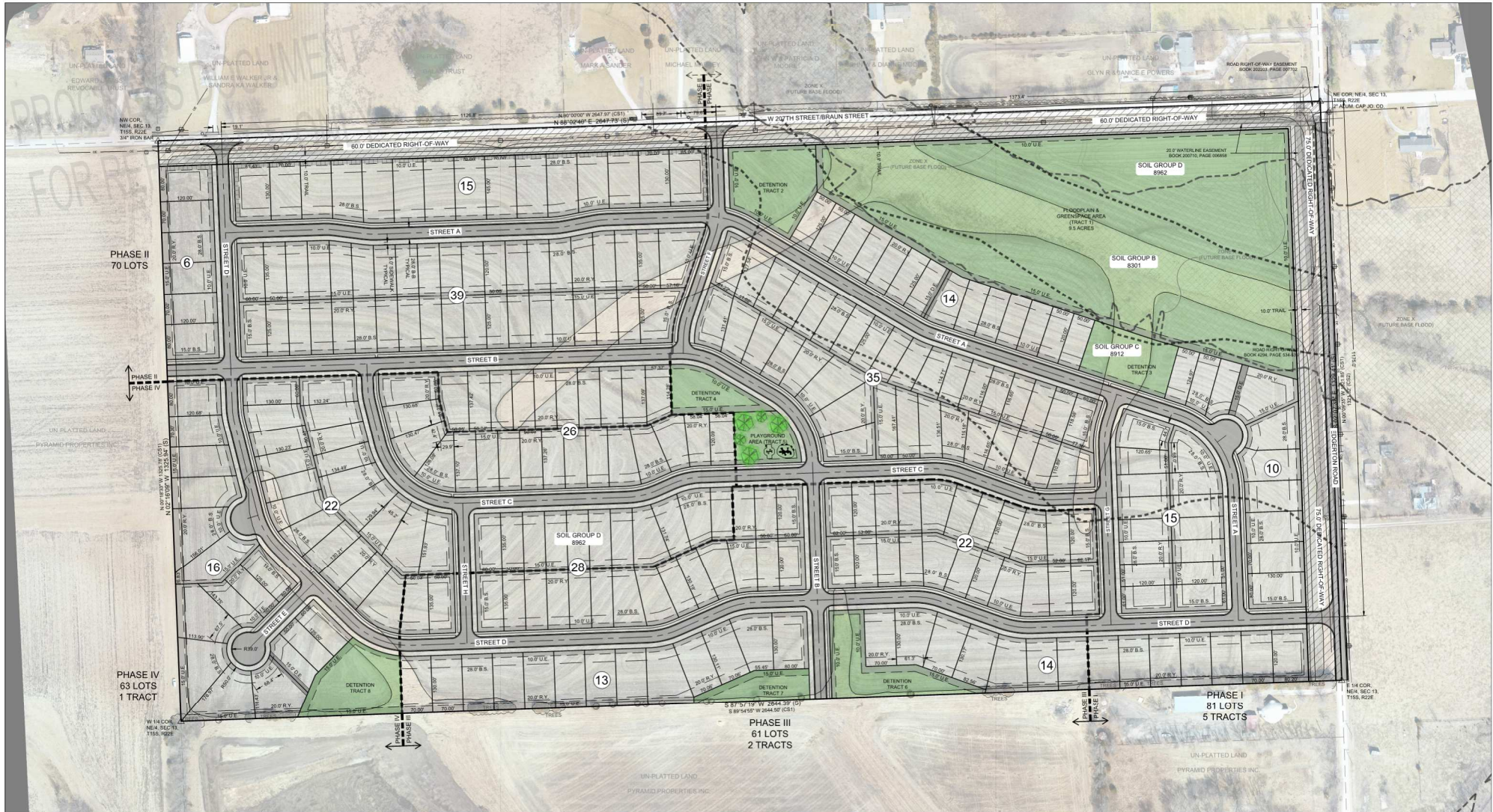
Preliminary PUD Concept
TIMBER CREEK
North Half of the NE Quarter, Section 13, T15S, R22E, Johnson County, Kansas

SMH
CONSULTANTS

Civil Engineering • Land Surveying • Landscape Architecture
Manhattan, KS • HQ P: (785) 775-0541 • Dodge City, KS P: (620) 255-1992
Kansas City, KS P: (816) 444-8815 • Colorado Springs, CO P: (719) 465-2145

Drawn By: A.S.J. Project #2203 0102 TDS #88

JUNE 2022



Soil Type	Hydrologic Soil Group	Acres	Percent of Site
Vergria Silt Loam	B	6.4	8.0%
Summit Silty Clay Loam	C	12.5	15.5%
Woodson Silt Loam	D	61.5	76.5%
Totals		80.4	100.0%

DESCRIPTION:
North Half of the Northeast Quarter of Section 13, Township 15 South, Range 21 East of the 6th PM, Johnson County, Kansas.

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DRAINAGE EASEMENTS = 15.0'
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-FY CORNER LOT = 28.0' & 15.0'
-SIDE YARD = 5.0'
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UTILITY EASEMENT
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3.4 AC - DRAINAGE
9.7 AC - GREENSPACE
80.4 AC - TOTAL

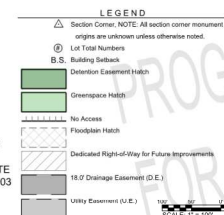
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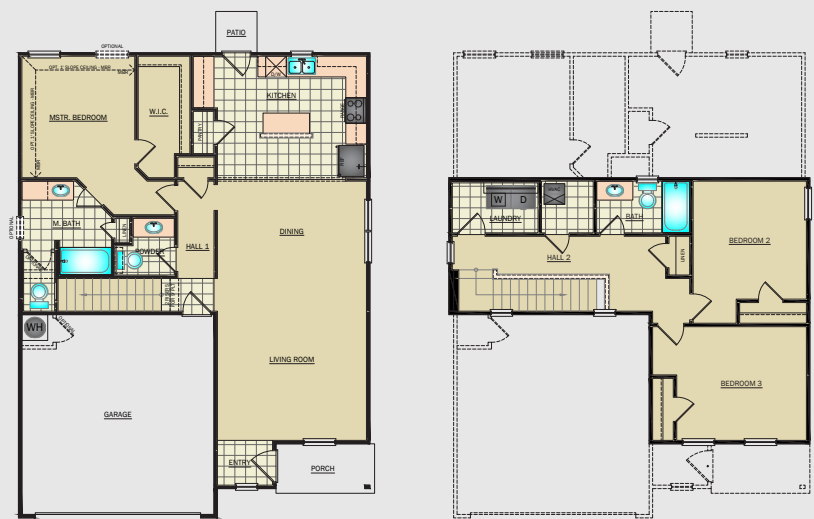
Preliminary PUD Concept
TIMBER CREEK
North Half of the NE Quarter, Section 13, T15S, R22E, Johnson County, Kansas

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Kansas City, KS P: (816) 444-8815 • Colorado Springs, CO P: (719) 485-2145

Drawn By: A.S.J. Project #2203 0102 TDS #88

JUNE 2022



First Floor

Second Floor

RC Addison

3 BED • 2.5 BATH
2 CAR GARAGE



LONG LIVE HAPPY HOMES®

Drawing is an artistic rendering only. Actual home, options and floorplans may vary from rendering and by community.
Optional elevation drawings on reverse side.



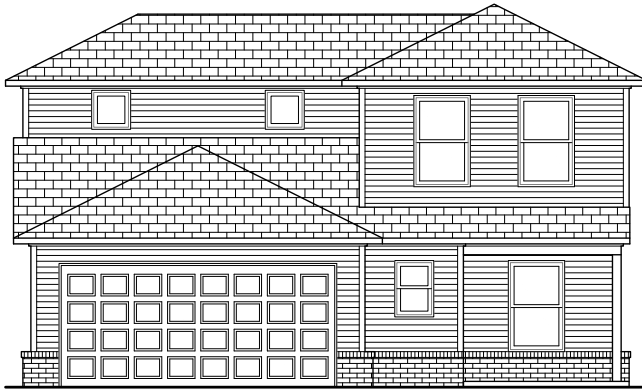
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844.4RCHomes 

Version 03



ELEVATIONS



RC Addison Elevation A



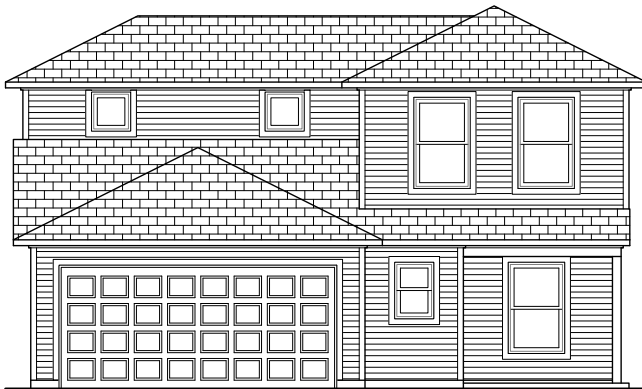
RC Addison Elevation B



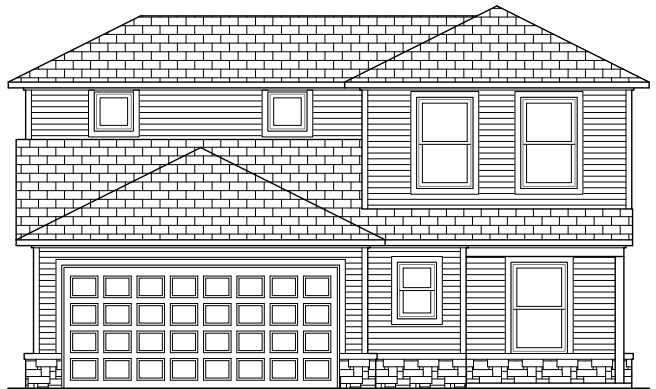
RC Addison Elevation C



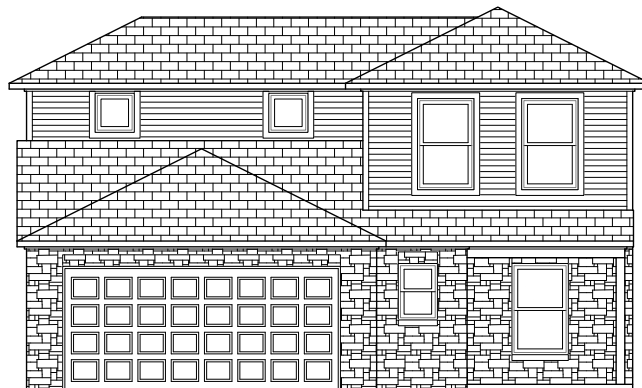
RC Addison Elevation D



RC Addison Elevation G



RC Addison Elevation H



RC Addison Elevation I



4 BED • 2 BATH
2 CAR GARAGE



Drawing is an artistic rendering only. Actual home, options and floorplans may vary from rendering and by community.
Optional elevation drawings on reverse side.

RAUSCH
COLEMAN



RCH.com

844.4RCHomes



Version 03

ELEVATIONS



RC Bridgeport Elevation A



RC Bridgeport Elevation B



RC Bridgeport Elevation C



RC Bridgeport Elevation D



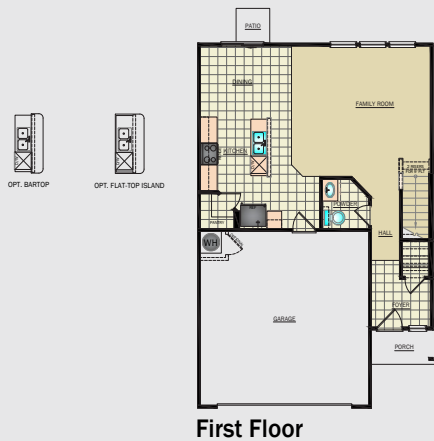
RC Bridgeport Elevation G



RC Bridgeport Elevation H



RC Bridgeport Elevation I



RC Camden

3 BED • 2 BATH
2 CAR GARAGE



LONG LIVE HAPPY HOMES®

Drawing is an artistic rendering only. Actual home, options and floorplans may vary from rendering and by community. Optional elevation drawings on reverse side.



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Version 06

ELEVATIONS



RC Camden Elevation A



RC Camden Elevation B



RC Camden Elevation C



RC Camden Elevation D



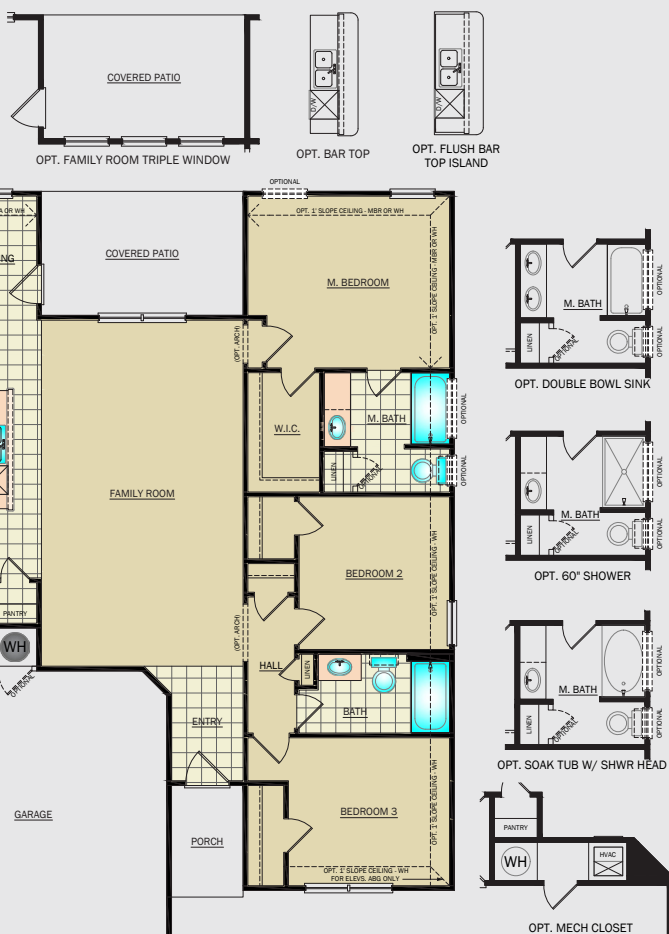
RC Camden Elevation G



RC Camden Elevation H



RC Camden Elevation I



Version 04

KC Elevations



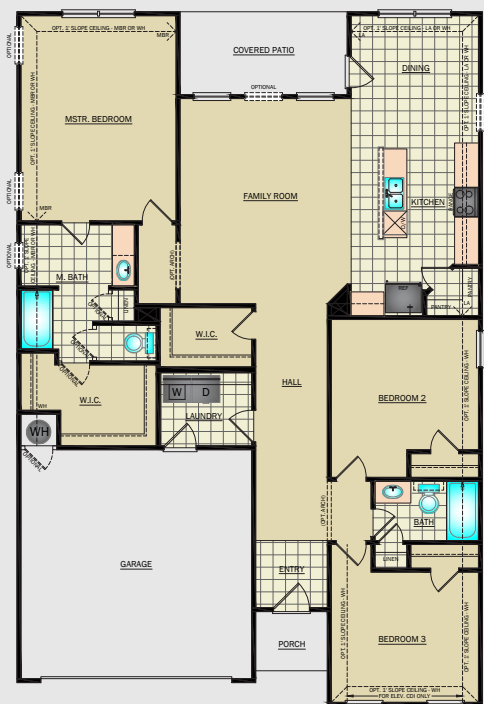
RC Fenway Elevation G



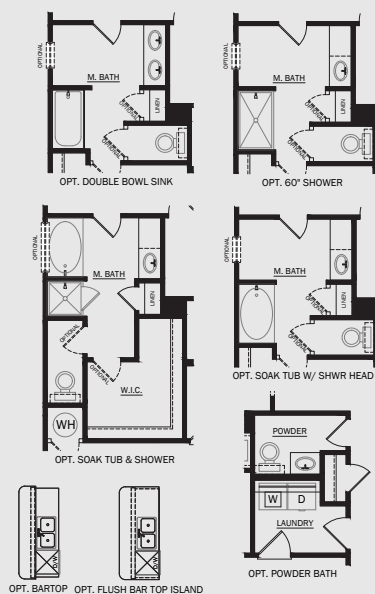
RC Fenway Elevation H



RC Fenway Elevation I



First Floor



RC Glenwood

**3 BED • 2 BATH
2 CAR GARAGE**



LONG LIVE HAPPY HOMES®

Drawing is an artistic rendering only. Actual home, options and floorplans may vary from rendering and by community. Optional elevation drawings on reverse side.



RCH.com

844.4RCHomes



Version 07

ELEVATIONS



RC Glenwood Elevation A



RC Glenwood Elevation B



RC Glenwood Elevation C



RC Glenwood Elevation D



RC Glenwood Elevation G



RC Glenwood Elevation H



RC Glenwood Elevation I



May 26, 2022

City of Edgerton
404 E Nelson St
Edgerton, KS 66021

Dear City of Edgerton:

This letter is intended to document sanitary sewer, storm sewer, and water main are directly available to the proposed Planned Unit Development (PUD) of Timber Creek Subdivision. A Preliminary Utility Layout is attached to provided verification each lot, in the proposed development, will have access to public sanitary sewer and water service.

SITE OVERVIEW

The existing site is located at the southwest quadrant of Braun Street & Edgerton Road in Edgerton, Kansas. The property is currently undeveloped agricultural land. The site is bordered to the north by Bruan Street and to the east by Edgerton Road. The bordering properties to the south and west are undeveloped agricultural land. There is a large waterway that splits the north east corner of the property. This area is marked as Flood Zone X – .1% Future Conditions.

SANITARY SEWER

Currently, there is no sanitary sewer available to the site. The developer and the City of Edgerton have discussed solutions to extend sanitary sewer to serve this development and future developments to the west.

The probable solution will be to connect to an existing 18-inch sanitary sewer main that runs north/south along the east side of the existing rail road tracks and South Lake. The City and the Developer have coordinated to potentially connect to this sanitary sewer and extend approximately 1,600 LF sanitary sewer main line to the proposed Timber Creek Development. Based on existing as-built plans, provided by the City, it should be feasible to route gravity sanitary sewer from east of the existing rail road tract to west of Edgerton Road to serve the entire proposed PUD Timber Creek Subdivision.

The proposed internal lots will be served throughout the development with approximately 10,000 LF of 8" sanitary sewer main.

STORM SEWER

The existing agricultural site can be divided into three main watersheds consisting of three main waterways; the southwest waterway, southeast waterway and the north waterway. The north waterway flows from west to east and carries water from offsite, through the existing channel, and crosses under Edgerton Road via 4'x16.5' RCB. This area is considered to be Flood Zone X- .1% Future Conditions and is not planned to be disturbed.

The southwest and southeast waterways collect stormwater from the southern third of the site and drain offsite. Generally, the proposed development will follow existing flow patterns. The proposed development will consist of five stormwater detention locations to meet pre-development peak flow rates. A stormwater memo, attached with this application, discusses existing and proposed stormwater conditions.

WATER MAIN

There is existing water main available in the right of way fronting the development. An 8" water main that runs along the north side of Braun Street, 12" water main along the south side of Braun Street at the Braun Street & Edgerton Road intersection, and 6" water main that runs along the west side of Edgerton Road.

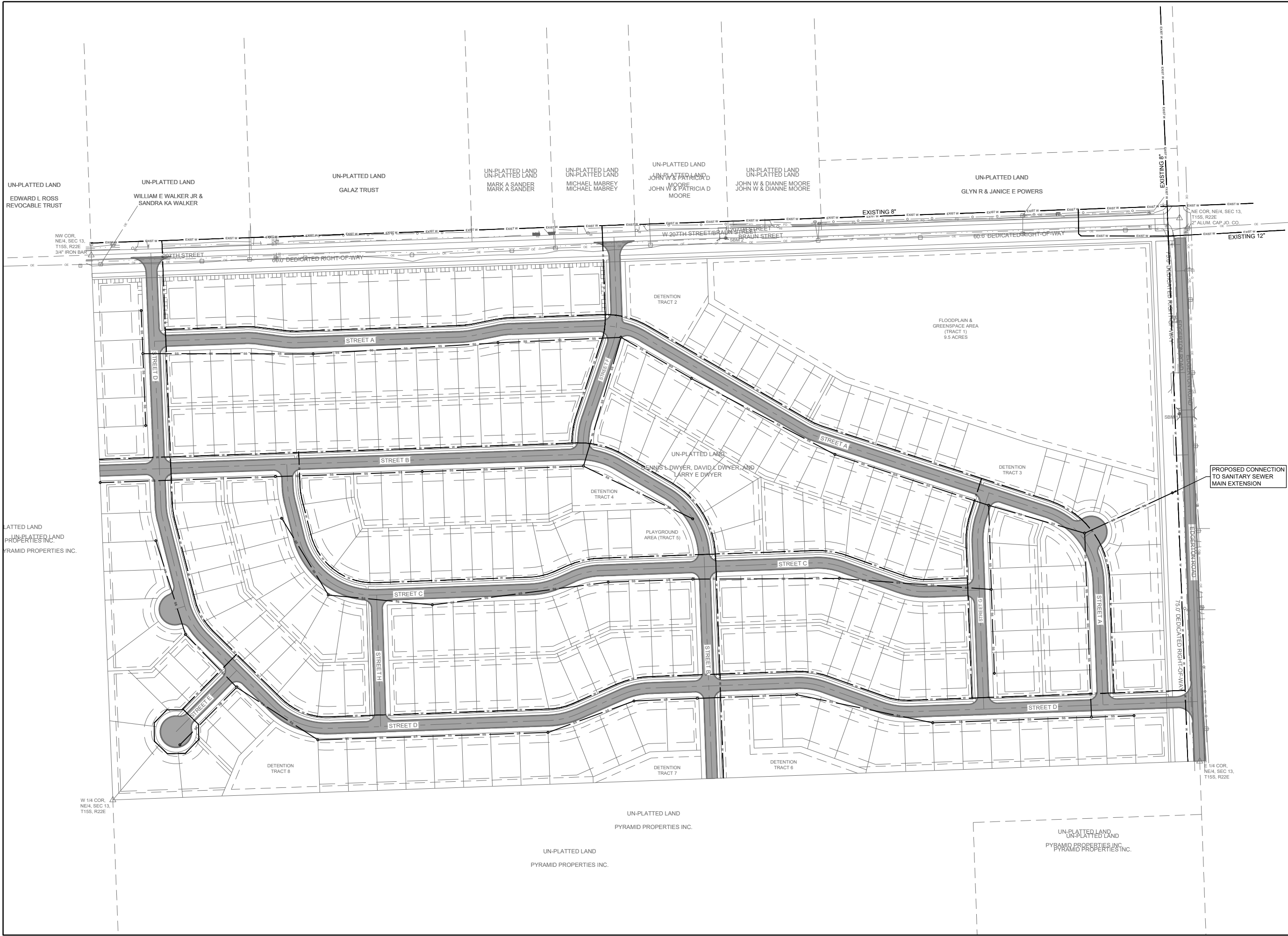
The proposed development will require to upgrade the 6" line along Edgerton to 8" and require an approximately 1,300 LF extension the length of the property. The proposed development will connect to existing water main at all three entrance locations. The internal site will be served by approximately 12,000 LF of 8" waterline.

If you need any more information or have any questions or concerns, I can be reached by email at bgasper@smhconsultants.com. I can also be reached by phone at (913) 444-9615.

Sincerely,



Ben Gasper, P.E.
SMH Consultants



TIMBER CREEK SUBDIVISION

PUD DOCUMENTS
EDGERTON, KANSAS

REVISION		REVISION DESCRIPTION
DATE	(DESCRIPTION)	
00/0000		
NORTH		
SCALE 1" = 100'		
PROJECT #: 2203-0102		
CHECKED BY: BCG		
DRAWN BY: BCG		
DATE: 5/26/2022		
SHEET #		1
TOTAL SHEETS		1



City of Edgerton Planning and Zoning
Attn: Chris Clinton, Planning and Zoning Coordinator
404 East Nelson
Edgerton, KS 66021

Subject: Property tax impact

Mr. Clinton,

The Timber Creek Subdivision in Edgerton, KS is planned for 275 single-family homes, each with an anticipated sales price between \$275,000-\$300,000. According to the Johnson County, KS website, the 2021 mil levy on a single-family home in the City of Edgerton was 146.180, of which approximately 20% goes to the City of Edgerton and 46% to USD 231 Gardner Edgerton. The remaining 34% benefiting other taxing entities including the State of Kansas, Johnson County, Johnson County Fire District 1, Community College, Library, and Parks & Rec.

By annexing the property into the City of Edgerton and rezoning to single-family, each home will be assessed with the City of Edgerton mil levy bringing the total rate to 146.180 for a single-family home (2021). The subject property is currently zoned RUR with a total 2021 mil levy of 116.789.

Assuming a home is valued at \$275,000, assessed at 11.5%, and a mill levy of 146.180, it will generate approximately \$4,600 in annual property taxes. Approximately \$920 of which would go to the City of Edgerton and \$2,116 to USD 231 Gardner Edgerton.

Timber Creek is proposed to be developed in four phases over the course of approximately five years. A breakdown of the annual property tax revenue that could be generated is estimated below; assuming the 2021 mil levy, a valuation of \$275,000 and fully developed. Please note, these estimates do not take into account fluctuations in the taxing jurisdiction's mil levy or property values. The total property tax received in 2021 for the subject property was \$1,176.

- **Phase I** - 81 Homes - \$372,500 Estimated Annual Property Tax Revenue
 - \$74,500 City of Edgerton and \$171,350 USD 321 Gardner Edgerton
- **Phase II** - 151 Homes - \$694,500 Estimated Annual Property Tax Revenue
 - \$138,900 City of Edgerton and \$319,500 USD 321 Gardner Edgerton
- **Phase III** - 212 Homes - \$975,000 Estimated Annual Property Tax Revenue
 - \$195,000 City of Edgerton and \$448,500 USD 321 Gardner Edgerton
- **Phase IV** - 275 Homes - \$1,265,000 Estimated Annual Property Tax Revenue
 - \$253,000 City of Edgerton and \$582,000 USD 321 Gardner Edgerton

It is difficult to predict the number of school age children that will live in Timber Creek as each municipality and subdivision age demographics vary based on a number of community factors. However, data from the 2020 census indicates there are 787,000 children ages 0-19 in the state of Kansas which makes up 27% of the state's estimated 2,913,000 residents. Additionally, the Kansas Statewide Housing Assessment notes the only region in Kansas with growth in the 0-19 age demographic was the Kansas City Metro. Based on these factors, in combination with the proposed housing type, it is reasonable to conclude USD 231 Gardner Edgerton will see an increase in school age children from the Timber Creek development. As noted above, a single home valued at \$275,000 will generate \$2,116 dollars for USD 231 based on the current mil levy. This does not include additional school state funding based on the number of enrolled students.

Generally, population growth and new subdivisions will require the need for additional public services including fire protection and law enforcement. The City of Edgerton is better positioned to quantify these costs of service. While we have taken time to analyze the property tax impact, Timber Creek will also have a positive impact on City sales tax revenue. Both throughout project construction and after completion as the increased population utilizes available City of Edgerton services and amenities.

Sincerely,



Ben Burton
SMH Consultants

TIMBER CREEK SUBDIVISION TRAFFIC IMPACT STUDY

**Braun Street & Edgerton Road
Edgerton, Kansas**

May 2022

Completed By:
Ben Gasper, P.E.
Cassandra Patrick, I.E.
Jody Thayer, I.E.

Project Description:
Proposed residential subdivision located at the
southwest quadrant of Braun Street & Edgerton Road



SMH
CONSULTANTS

TABLE OF CONTENTS

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PROJECT DESCRIPTION	3
TRIP GENERATION.....	4
TRIP DISTRIBUTION	4
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JOHNSON COUNTY (CARNP)	5
AUXILIARY LANES	6
SUMMARY	7
APPENDIX.....	8

Figure 1 – Location Map

Figure 2 – Proposed Preliminary Concept Plan

Exhibit 1 – KDOT Access Management Policy, Table 4-25 & Table 4-27

Exhibit 2 – Existing Peak Hour Turning Movements

Exhibit 3 – Existing LOS Calculations

Exhibit 4 – ITE Trip Generation Sheets

Exhibit 5 – Trip Distribution AM & PM Assumptions

Exhibit 6 – Existing + Development Peak Hour Turning Movements

Exhibit 7 – Existing + Development LOS Calculations

Exhibit 8 – Johnson County CARNP Pages 4-5 and 4-6

INTRODUCTION

SMH Consultants, P.A. (SMH) conducted a basic traffic impact study for the proposed Timber Creek residential subdivision development located in Edgerton, Johnson County, Kansas. The development is located in the southwest quadrant of the Braun Street and Edgerton Road intersection. At full build out, the development is anticipated to consist of approximately 276 residential lots. The purpose of this study is to evaluate the impact of the proposed development on the Braun Street and Edgerton Road intersection level of service, evaluate the existing roadway capacities fronting the development, and evaluate the proposed entrance drives for the need of auxiliary lanes. A location map and proposed concept of the development is provided by Figures 1-2 in the appendix.

The traffic impact study discusses existing conditions and the anticipated traffic growth from the proposed development. Existing + development volumes were determined using existing field collected traffic volumes at the Braun Street and Edgerton Road intersection and combining with assumptions and ITE's Trip Generation Methodology.

METHODOLOGY

SMH Consultants conducted manual A.M. and P.M. peak hour turning movement counts at the intersection of Braun Street and Edgerton Road on three consecutive days, Tuesday-Thursday, on April 12-14, 2022. McTrans HCS7 Software was utilized to analyze the existing and existing + development conditions of the intersection level of service.

Intersection Level of Service (LOS) is a concept defined by the *Highway Capacity Manual* (HCM) to qualitatively describe operating conditions within a traffic stream. LOS is typically sorted into six categories (A through F). These range from LOS A indicating free-flow, low density, or nearly negligible delay conditions to LOS F where demand exceeds capacity and large queues are experienced.

The HCM uses control delay, measured in average seconds of delay per vehicle, as the basis for determining LOS for unsignalized intersections. Control delay at an intersection is the average stopped time per vehicle traveling through the intersection plus the movements at slower speeds due to the vehicles moving up in the queue or slowing upstream of the approach. For all-way stop-controlled intersections, individual approach delays as well as an overall average delay are calculated for each intersection. Table 1 has the LOS criteria for an unsignalized intersection.

Table 1: Unsignalized LOS Criteria	
Level of Service	Control Delay Range (s/veh)
A	0-10
B	10-15
C	15-25
D	25-35
E	35-50
F	>50

The LOS rating deemed acceptable varies by community, facility type, and traffic control device. In communities similar to Edgerton, Kansas a LOS C and above at unsignalized intersections is often accepted for low to moderate traffic volumes where the installation of a traffic signal is not warranted.

The Johnson County Comprehensive Arterial Road Network Plan (CARNP) was utilized to evaluate the existing roadway capacities fronting the proposed development. Johnson County CARNP provides data and recommendations for specific roadway capacities and trigger mechanisms to warrant an upgrade to roadway typical sections.

The Kansas Department of Transportation's (KDOT) Access Management Policy was utilized for auxiliary lane warrant analysis. The KDOT Access Management Policy Table 4-25, Exhibit 1, was utilized to evaluate if a right-turn or deceleration taper is warranted.

The KDOT Access Management Policy has three warrants that must be analyzed to determine if an auxiliary left turn lane is warranted. Table 2 depicts the three warrants and the criteria for each warrant that must be met and Table 4-27, Exhibit 1, gives the recommended left-turn lane warrants.

Table 2: Auxiliary Left Turn Lane Warrants	
Warrant	Criteria
Safety	Crash rate statistically above statewide average
	Located within a highway corridor with a crash rate statistically above statewide average
	Pattern of left turn/rear end crashes present and addition of left turn would reduce crashes
Special Circumstances	Locations where site geometry would improve operational and/or safety aspects of highway
	All new educational institutions and medical facilities located on or adjacent to a highway with a posted speed limit of greater than 45 mph
	When special circumstances known by the District Engineer are present at the specific access location
Operational	Utilize Table 4-23 from the KDOT Access Management Policy. See Table 4-23 located in the appendix

EXISTING CONDITIONS

The existing intersection of Braun Street and Edgerton Road is all-way stop-controlled and currently all legs of the intersection are paved. In discussions with the City of Edgerton, the City plans to upgrade the existing intersection to allow for improved truck turning movements. To do this, the city is proposing to add right hand turn lanes to allow for larger turning movements. However, at the time of this study and analysis, no improvements have been made, and data was conducted using the existing intersection as it sits.

Braun Street consist of a 24-foot wide, asphalt peeved, two-lane road with no shoulder or curb and gutter and has a posted speed limit of 30 miles per hour. Based on information from Johnson County AIMS, Braun Street has an approximate Average Daily Traffic (ADT) volume of 205 vehicles west of the intersection and 662 vehicles east of the intersection.

North of the intersection, Edgerton Road is a 24-foot wide, asphalt peeved, two-lane road with no shoulder or curb and gutter and has a posted speed limit of 30 miles per hour. South of the intersection, Edgerton Road is 24-foot wide unpaved gravel road. Edgerton Road has an ADT of 651 vehicles north of the intersection and 125 vehicles south of the intersection.

Based on the manual turning movement counts performed by SMH Consultants, the A.M. peak hour was found to be 7:00-8:00 A.M. and had a peak hour volume of 95 vehicles. The P.M. peak hour was found to be 4:30-5:30 P.M. and had a volume of 109 vehicles. The existing A.M. and P.M. peak hour turning movements are summarized in Exhibit 2 of the appendix.

Table 3 displays the existing vehicle delay and LOS for each leg of the intersection. Detailed intersection LOS calculations for the intersection are provided by Exhibit 3 in the appendix. The analysis shows that the existing intersection performs at an LOS A, which is an acceptable level of service during the A.M. and P.M. peak hour.

Table 3 – Existing Intersection LOS					
Intersection	Movement	A.M. Peak Hour		P.M. Peak Hour	
		Delay (s/veh)	LOS	Delay (s/veh)	LOS
Braun Street & Edgerton Road	EB Thru/RT/LT	7.3	A	7.3	A
	WB Thru/RT/LT	6.8	A	6.8	A
	NB Thru/RT/LT	7.1	A	6.8	A
	SB Thru/RT/LT	7.5	A	7.3	A

PROJECT DESCRIPTION

The proposed Timber Creek development will be located in the southwest quadrant of the intersection of Braun Street and Edgerton Road. The development will be served by three entrances, two via Braun Street and one via Edgerton Road. Figure 2, in the appendix, depicts the proposed layout of the Timber Creek Subdivision. The entrance via Edgerton Road will be approximately 1,175 feet south of the Braun Street and Edgerton Road intersection and will be approximately 28 feet wide, back of curb to back of curb, at the right of way line. The entrances via Braun Road, will be approximately 1,375 feet and 2,500 feet west of the Braun Street and Edgerton Road intersection and will be approximately 28 feet wide, back of curb to back of curb, at the right of way line. At full development, the development will consist of approximately 275 single family residential lots. Interior roads and sidewalks will be provided for vehicular and pedestrian circulation throughout the development.

TRIP GENERATION

Vehicle trips generated by the proposed Timber Creek development were estimated using The Institute of Transportation Engineers (ITE), *Trip Generation Report, 11th Edition*. Table 4 illustrates the A.M. and P.M. peak hour vehicle volume generated by the development. The pages from the ITE report can be seen in Exhibit 4 of the appendix.

Table 4 – Trip Generation										
Land Use (ITE Code)	Intensity (Dwelling Units)	Daily (vehicles)			A.M. Peak Hour (vehicles)			P.M. Peak Hour (vehicles)		
		Total	In	Out	Total	In	Out	Total	In	Out
Single Family Detached (210)	275	2594	1297	1297	203	53	150	267	171	96

TRIP DISTRIBUTION

For the purposes of this study, the generated trips were distributed based on the number of lots in close proximity to a certain entrance of the development. For the Edgerton Road entrance, it was approximated 35% of the generated trips would utilize this entrance. Conversely, for the two Braun Street entrances, it was assumed that a combined 65% of the generated trips would utilize these entrances. The trips distribution was further broken down; 16% would utilize the west entrance and 49% would utilize the east entrance along Braun Street. This trip distribution assumptions were used in the Braun Street & Edgerton Road intersection LOS analysis as well as the auxiliary lane warrant analysis. These assumptions can be viewed in Exhibit 5.

EXISTING + DEVELOPMENT

Existing + development conditions combine the existing A.M. and P.M. peak hour turning movements with the A.M. and P.M. peak hour traffic generated by the full development. The existing + development peak hour turning movements can be seen in Exhibit 6 of the appendix. Table 5 shows the existing + development LOS for the four directions of the Braun Street and Edgerton Road intersection. Detailed intersection LOS calculations for the intersection are provided by Exhibit 7 in the appendix.

Table 5: Existing + Development Intersection LOS					
Intersection	Movement	A.M. Peak Hour		P.M. Peak Hour	
		Delay (s/veh)	LOS	Delay (s/veh)	LOS
Braun Street & Edgerton Road	EB Thru/RT/LT	8.3	A	8.2	A
	WB Thru/RT/LT	7.5	A	8.5	A
	NB Thru/RT/LT	7.4	A	7.7	A
	SB Thru/RT/LT	8.0	A	8.1	A

As depicted in Table 5, the peak hour analysis shows that the intersection will continue to perform at LOS A during the peak hours in the existing + development conditions, with the all-way-stop controlled intersection. The delay does increase approximately 1 second per vehicle across the board, however, this still warrants LOS A based on Table 1.

JOHNSON COUNTY CARNP

The City of Edgerton request Johnson County CARNP be considered when studying the proposed development area. Johnson County CARNP is a planning process “to achieve a community consensus for maximizing the utility of the County's existing arterial road network to meet anticipated perimeter transportation needs.” It recommends the development of both major and minor systems of routes, including parkways and boulevards that would interconnect the County’s and the regional roadway network.

Braun Street and Edgerton Road are listed as arterials and part of the Johnson County arterial network. Both of the existing corridor ROWs are limited at 40 feet. With this development, 60 feet will be dedicated along Braun Street to meet the proper 120 foot ROW and 75 feet will be dedicated along Edgerton Road to meet the proposed 150 foot ROW. Page 4-5 and 4-6 of the Johnson County CARNP depict the corridor development categories and the conceptual schematic of the different roadway types. These pages are presented in Exhibit 8 of the appendix. Table 7 depicts the Street Capacity Guidelines listed in the Johnson County CARNP.

Table 7: Street Capacity Guidelines			
Class	Name	Description	ADT
1	Primitive	Narrower than 17 feet	N/A
2	One Lane Gravel	Narrower than 17 feet	40
3	Narrow Gravel	17'-20' wide	200
4	Gravel	Wider than 20 feet	350
5	Narrow Asphalt	Less than 22 feet wide	1,000
6	Asphalt	No shoulders, wider than 22 feet	2,000
7	Asphalt	With shoulders, wider than 24 feet	4,000
8	Rural Major Arterial	Engineered plan and profile, >24' wide	8,000
9	Rural Major Arterial	With turn lanes, >24' wide	10,000
10	Urban Major Arterial	4-lane, >48' wide	20,000

Johnson County CARNP lists particular trigger policies that roadways are required to meet before being upgraded. The majority of the designated CARNP routes currently do not meet CARNP standards. Since Edgerton Road is a Type III, a minimum threshold traffic volume is required before a trigger review is conducted for potential improvement to CARNP standards. An existing two-lane CARNP designated road that does not meet CARNP standards shall not be considered for improvement to CARNP design standards unless the traffic volume is at least 1,500 ADT. An existing two-lane CARNP designated road shall not be considered for improvement to a four-lane road unless the existing traffic volume is at least 7,500 ADT.

Braun Street is currently a Class 6 Street capacity. It is a 24 feet wide asphalt paved street with no shoulder and operates ideally around 2,000 ADT. Braun street is planned as Type I with two lanes. Along the proposed Timber Creek Development frontage, Braun Street will have an existing + development ADT of approximately 1891 vehicles. With this development, Braun Street will still be at optimal ADT with a two-lane asphalt road, as noted in Table 7.

Edgerton Road north of the intersection is also a Class 6 street capacity. However, south of the intersection and along the frontage of the proposed Timber Creek Development, it is a Class 4. The existing roadway along the development consist of a 24-foot-wide gravel road.

With this development Edgerton Road will have an approximate existing + development ADT of 1033 vehicles and would be required to be a minimum of Class 5. Edgerton Road will need to be upgraded from Class 4 Gravel. Edgerton Road will be acceptable as a two lane 24-foot-wide roadway, 28 feet with curb and gutter. CARNP proposed Edgerton Road as a Type III with four lanes, but this development does not warrant the 7,500 ADT trigger of upgrading from two lanes to four.

AUXILIARY LANES

Auxiliary lanes (such as a left or right-turn lane) provide space for slowing vehicles preparing to turn while maintaining through traffic or allow vehicles entering from a minor street to accelerate before merging onto the highway. SMH evaluated each of the three subdivision entrances to determine if a right-turn, deceleration taper, or left-turn lane is warranted.

Right-Turn Lane and Deceleration Taper

To warrant a right-turn lane or deceleration taper, the criteria used was exterior road speed limits, 40 mph or lower, and the directional design hourly volume (DDHV). Braun Street and Edgerton have a DDHV of 95 vph and 52 vph respectively. Neither Braun Street or Edgerton Road fronting the proposed development has an existing or existing + development DDHV over 400. Based on Table 4-25, none of these entrances warrant a right turn lane into the development. The analysis determines that no right-turn or deceleration taper is needed for any of the three entrances into the subdivision from Braun Street or Edgerton Road.

Left-Turn Lane

Three criteria were analyzed to determine if any of the entrances warrant a left hand turn auxiliary lane, seen in Table 2. SMH evaluated each of the three entrances and concluded that none of these entrances warrant a left-turn lane. SMH has summarized its finding for each warrant below:

Safety: Based on information provided by the KDOT Bureau of Transportation Safety department, there have been no crashes at the intersection or within 200 feet in either direction of the intersection within the last five years. Based on the crash data history, the statistical rate of crashed at the intersection is below the statewide average; and there is no history or patterns of left turn/rear end crashes requiring the implementation of auxiliary lanes.

Special Circumstances: SMH does not have any knowledge of special circumstances to be aware of in this location. There are no new educational institutions and medical facilities located on or adjacent to a highway with a posted speed limit of greater than 45 mph and no special circumstances that have been brought to SMH's attention. The City does plan to widen and improve the existing intersection; however, this shall theoretically improve existing and existing + development turning movements.

Operational Criteria: SMH utilized Table 4-23 from the KDOT Access Management Policy to determine if any entrance warranted a left-hand turn lane. Based on existing and existing + development data, neither Braun Street or Edgerton Road has a high enough opposing volume of vehicles per hour, or high enough speed limit, to register on Table 4-23. Table 6 list the volumed assumptions used to evaluate each intersection.

Tabel 6: Volume Assumptions			
	V_o (vph)	V_a (vph)	% Left Turns
West Braun	15	47	> 30%
East Braun	28	125	> 30%
Edgerton	64	8	> 20%

SUMMARY

The traffic impact study documents the impact of a proposed residential subdivision to be located at the southwest quadrant of Braun Street and Edgerton Road. The existing conditions proved to be an existing LOS A. The intersection will continue to operate at LOS A for the A.M and P.M. peak hours, at full development. Geometric or signalized intersection improvements to the Braun Street and Edgerton Road intersection are not required for this specific development.

The Johnson County CARNP describes future development of Braun Street to be Type I, with two lanes and Edgerton Road to be Type III, with four lanes and a median. At this time, the ADT volumes do not warrant the Type III typical section for Edgerton Road and shall be re-evaluated with future development. However, Edgerton Road will need to be upgraded from gravel to a paved 24-foot wide roadway.

From a safety and operational standpoint, no auxiliary lanes are warranted, based on the existing + development conditions. With more development in the area, these roadways should be re-evaluated in the future.

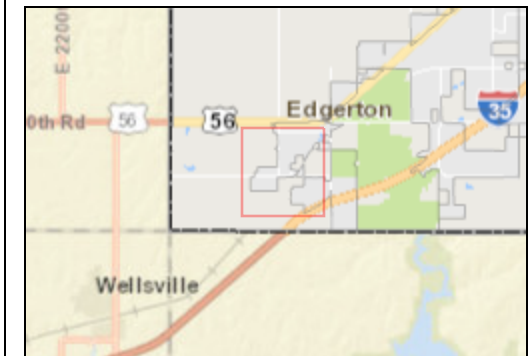
Appendix



Johnson Co AIMS Map

Figure 1 - Location Map

LEGEND



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highway operating speed and DDHV, either a right-turn lane or deceleration taper is warranted at the access. See Section 4.5.3 for the design of auxiliary lanes.

The values in Table 4-25 shows the minimum turning volume needed to *warrant* a turn lane or a deceleration taper on a two-lane highway.

Table 4-25. Right-turn treatment guidelines for two-lane highways

Highway DDHV (vph)	Highway Operating Speed (mph)											
	40		45		50		55		60		65	
	Lane	Taper	Lane	Taper	Lane	Taper	Lane	Taper	Lane	Taper	Lane	Taper
200				83	73	30	35	14	20	8	15	7
300			120	40	41	19	24	9	15	7	12	6
400	200	85	52	27	30	14	19	8	12	6	11	5
600	50	27	26	13	20	9	14	6	10	5	9	4
800	25	12	16	8	15	7	11	5	9	4	8	3
1000	14	8	12	5	11	5	9	4	8	3	7	3
1200	10	6	9	4	9	4	8	4	7	3	7	3

Source : "Guidelines for right-turn treatments at unsignalized intersections and driveways," K-Tran:KSU-95-5, Kansas Department of Transportation, Kansas State University, Tanweer Hasan, Dr. Robert W. Stokes

- Turning speed is 15 mph (right-turn)
- The values presented in this table represent minimum right-turn design hour volumes (vph) required to warrant right-turn treatments (lane or taper)
- DDHV = directional design hourly volumes

Two-lane highway example—A new development along US-50 (two-lane highway) in Reno County east of Hutchinson, Kansas, has requested an access point to the north. It is estimated that during the peak hour, approximately 25 vehicles will be turning right into the new access from the east soon after the facility opens. The 2011 *average daily traffic* (ADT) is shown to be 4,370 vpd and the posted speed limit is 65 mph. Is a right-turn lane warranted?

The *directional design hourly volume* (DDHV) is equal to the ADT divided by two (assuming half the traffic is traveling westbound and half eastbound on US-50) and multiplied by 10 percent (assumed peak hour volume).

$$DDHV = (ADT/2) \times 0.10$$

$$DDHV = (4,370/2) \times 0.10 = 219 \text{ vph (westbound on US-50)}$$

Looking at Table 4-25, it can be seen that the DDHV is over 200 vph, the highway operating speed is 65 mph and, therefore, the design hourly right-turn threshold is 15 vph. The estimated number of right turns westbound during the peak hour is 25 vph (greater than 15 vph) and, therefore, a right-turn lane is warranted.

The values in Table 4-26 shows the minimum turning volume needed to warrant a turn lane or a deceleration taper on a four-lane highway.

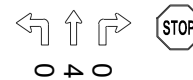
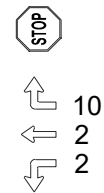
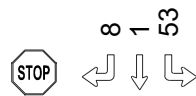
Table 4-27. Recommended left-turn lane warrants for two-lane highways

Opposing Volume V_o (vph)	Advancing Volume V_a (vph)			
	5% Left turns	10% Left turns	20% Left turns	30% Left turns
40-mph speed				
800	136	99	74	65
700	159	116	87	76
600	186	135	101	88
500	218	158	119	103
400	255	185	139	121
300	301	218	164	143
200	356	259	194	169
100	426	309	232	202
50-mph speed				
800	118	86	64	56
700	138	100	75	66
600	161	117	88	77
500	188	137	103	90
400	221	161	120	105
300	260	189	142	124
200	309	224	168	147
100	369	268	201	175
60-mph speed				
800	96	70	53	46
700	113	82	61	54
600	131	95	72	63
500	154	112	84	73
400	181	131	98	86
300	213	154	116	101
200	252	183	137	120
100	301	219	164	143
70-mph speed				
800	68	50	37	32
700	80	58	43	38
600	93	68	51	44
500	109	79	59	52
400	128	93	70	61
300	150	109	82	72
200	178	129	97	85
100	213	155	116	101

Source: Adapted from Van Schalkwyk, I., and V. Stover. *Revisiting Existing Warrants for Left-Turn Lanes at Unsignalized Intersections on Two-Way Roadways*, TRB 2007 Annual Meeting CD-ROM, National Research Council, Washington, D.C. (2007).

Note: Critical gap = 8.0 seconds, time to turn left = 4.3 seconds, time to clear lane = 3.2 seconds

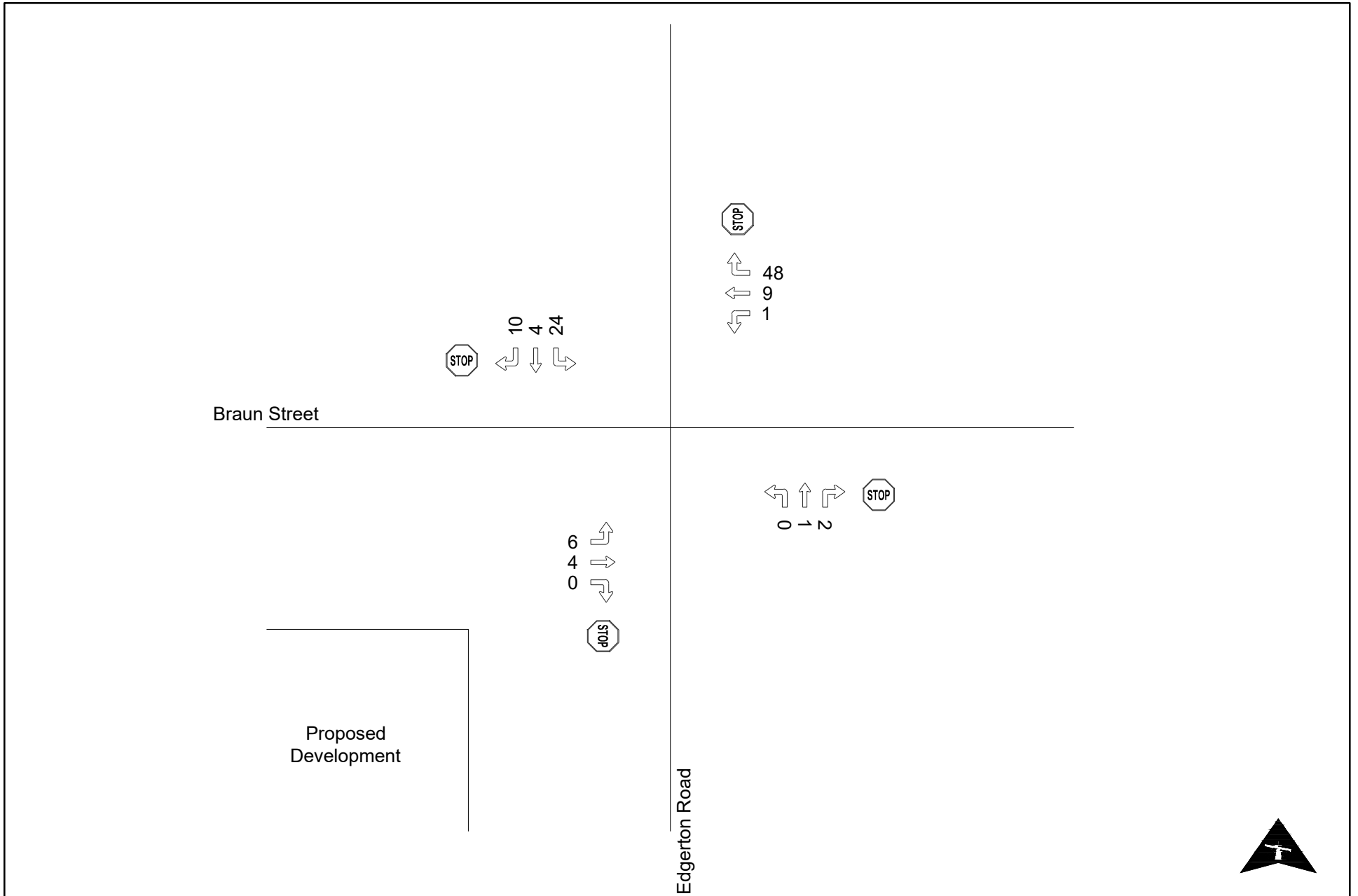
Braun Street



Proposed
Development

Edgerton Road



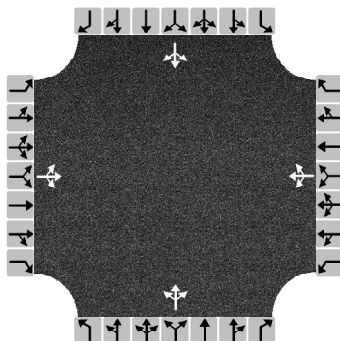


HCS7 All-Way Stop Control Report

General Information

Analyst	Brett Louk	Intersection	W. Braun St. & Edgerton R
Agency/Co.	SMH Consultants	Jurisdiction	Edgerton, KS
Date Performed	5/11/2022	East/West Street	W. Braun St.
Analysis Year	2022	North/South Street	Edgerton Rd.
Analysis Time Period (hrs)	1.00	Peak Hour Factor	0.82
Time Analyzed	7-8 am Existing		
Project Description	Timber Creek Subdivision		

Lanes



Vehicle Volume and Adjustments

Approach	Eastbound			Westbound			Northbound			Southbound		
Movement	L	T	R	L	T	R	L	T	R	L	T	R
Volume	7	8	0	2	2	10	0	4	0	53	1	8
% Thrus in Shared Lane												
Lane	L1	L2	L3	L1	L2	L3	L1	L2	L3	L1	L2	L3
Configuration	LTR			LTR			LTR			LTR		
Flow Rate, v (veh/h)	18			17			5			76		
Percent Heavy Vehicles	2			2			2			2		

Departure Headway and Service Time

Initial Departure Headway, hd (s)	3.20			3.20			3.20			3.20		
Initial Degree of Utilization, x	0.016			0.015			0.004			0.067		
Final Departure Headway, hd (s)	4.22			3.73			4.08			4.11		
Final Degree of Utilization, x	0.021			0.018			0.006			0.086		
Move-Up Time, m (s)	2.0			2.0			2.0			2.0		
Service Time, ts (s)	2.22			1.73			2.08			2.11		

Capacity, Delay and Level of Service

Flow Rate, v (veh/h)	18			17			5			76		
Capacity	853			966			882			877		
95% Queue Length, Q ₉₅ (veh)	0.1			0.1			0.0			0.3		
Control Delay (s/veh)	7.3			6.8			7.1			7.5		
Level of Service, LOS	A			A			A			A		
Approach Delay (s/veh)	7.3			6.8			7.1			7.5		
Approach LOS	A			A			A			A		
Intersection Delay, s/veh LOS	7.3						A					

HCS7 All-Way Stop Control Report

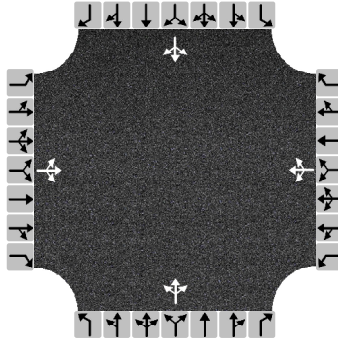
General Information

Analyst	Brett Louk
Agency/Co.	SMH Consultants
Date Performed	5/11/2022
Analysis Year	2022
Analysis Time Period (hrs)	1.00
Time Analyzed	4:30-5:30 pm Existing
Project Description	Timber Creek Subdivision

Site Information

Intersection	W. Braun St. & Edgerton R
Jurisdiction	Edgerton, KS
East/West Street	W. Braun St.
North/South Street	Edgerton Rd.
Peak Hour Factor	0.83

Lanes



Vehicle Volume and Adjustments

Approach	Eastbound			Westbound			Northbound			Southbound		
Movement	L	T	R	L	T	R	L	T	R	L	T	R
Volume	6	4	0	1	9	48	0	1	2	24	4	10
% Thrus in Shared Lane												
Lane	L1	L2	L3	L1	L2	L3	L1	L2	L3	L1	L2	L3
Configuration	LTR			LTR			LTR			LTR		
Flow Rate, v (veh/h)	12			70			4			46		
Percent Heavy Vehicles	2			2			2			2		

Departure Headway and Service Time

Initial Departure Headway, hd (s)	3.20			3.20			3.20			3.20		
Initial Degree of Utilization, x	0.011			0.062			0.003			0.041		
Final Departure Headway, hd (s)	4.22			3.56			3.74			4.06		
Final Degree of Utilization, x	0.014			0.069			0.004			0.052		
Move-Up Time, m (s)	2.0			2.0			2.0			2.0		
Service Time, ts (s)	2.22			1.56			1.74			2.06		

Capacity, Delay and Level of Service

Flow Rate, v (veh/h)	12			70			4			46		
Capacity	853			1011			963			886		
95% Queue Length, Q ₉₅ (veh)	0.0			0.2			0.0			0.2		
Control Delay (s/veh)	7.3			6.8			6.8			7.3		
Level of Service, LOS	A			A			A			A		
Approach Delay (s/veh)	7.3			6.8			6.8			7.3		
Approach LOS	A			A			A			A		
Intersection Delay, s/veh LOS	7.0						A					

Single-Family Detached Housing (210)

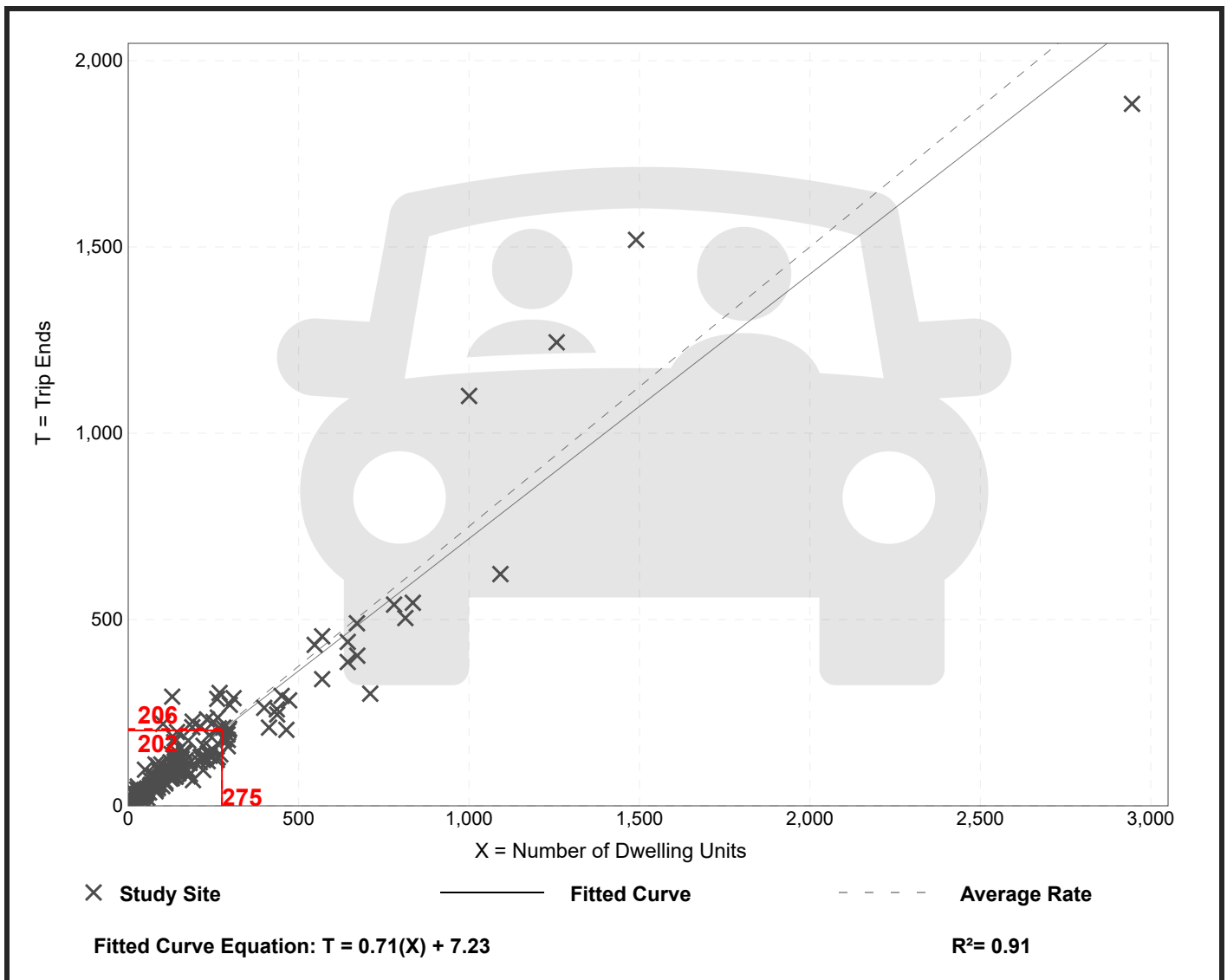
Vehicle Trip Ends vs: Dwelling Units
On a: Weekday,
AM Peak Hour of Generator

Setting/Location: General Urban/Suburban
Number of Studies: 169
Avg. Num. of Dwelling Units: 217
Directional Distribution: 26% entering, 74% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.75	0.34 - 2.27	0.25

Data Plot and Equation



Single-Family Detached Housing (210)

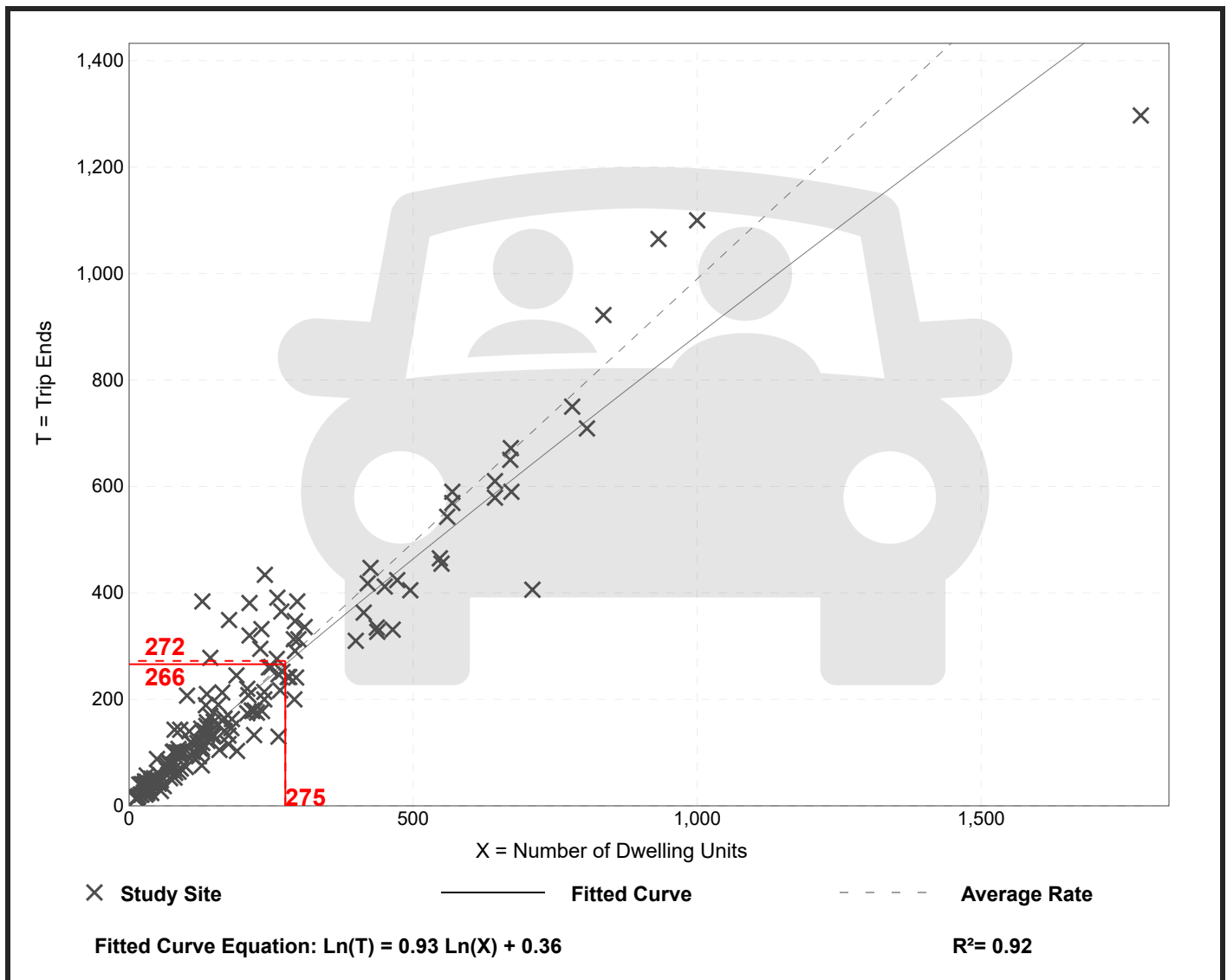
Vehicle Trip Ends vs: Dwelling Units
On a: Weekday,
PM Peak Hour of Generator

Setting/Location: General Urban/Suburban
Number of Studies: 178
Avg. Num. of Dwelling Units: 203
Directional Distribution: 64% entering, 36% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.99	0.49 - 2.98	0.28

Data Plot and Equation



Single-Family Detached Housing (210)

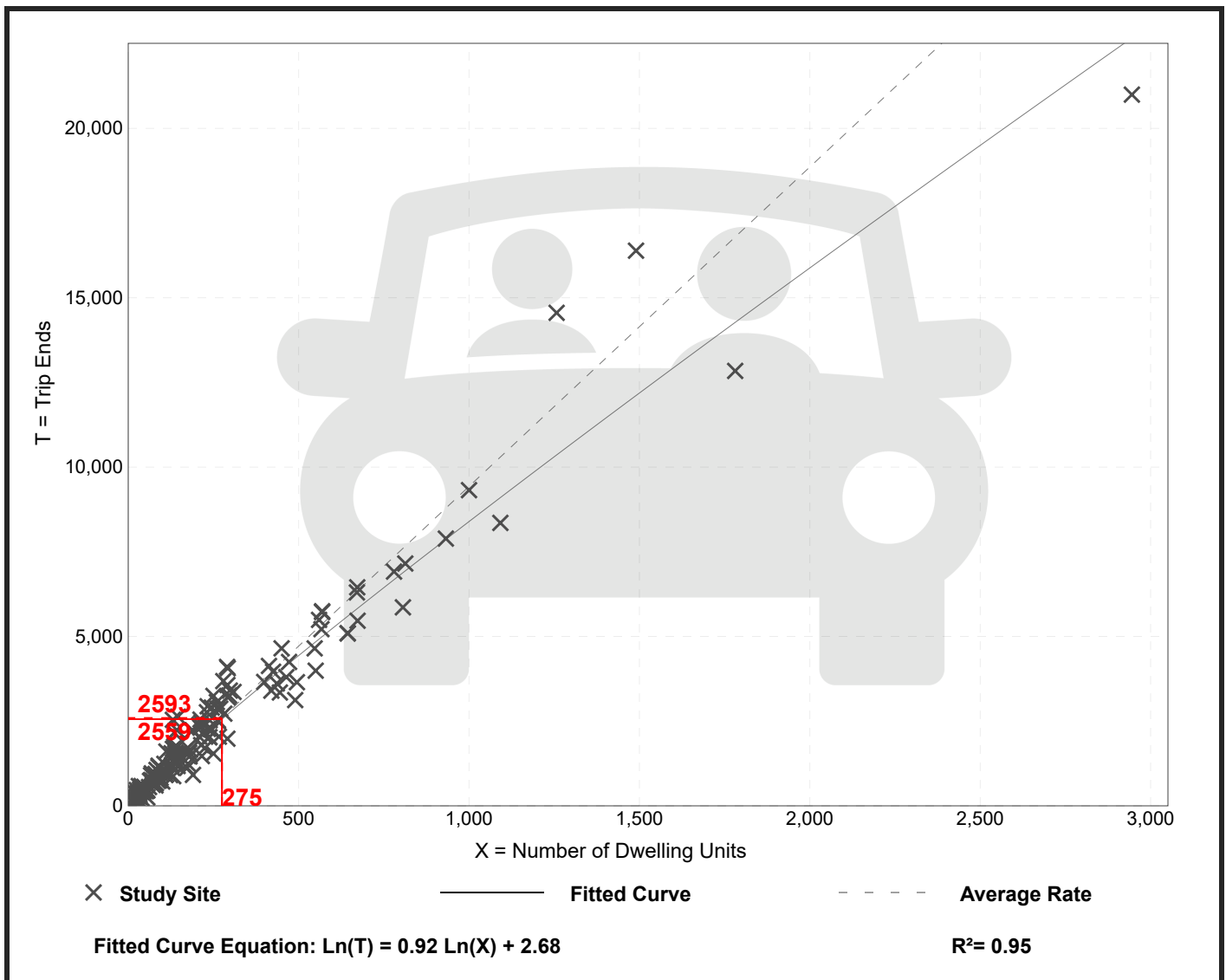
Vehicle Trip Ends vs: Dwelling Units
On a: Weekday

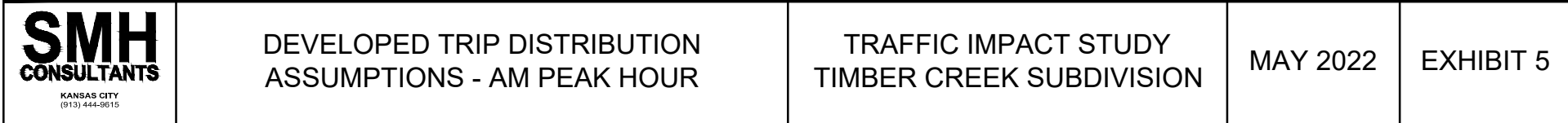
Setting/Location: General Urban/Suburban
Number of Studies: 174
Avg. Num. of Dwelling Units: 246
Directional Distribution: 50% entering, 50% exiting

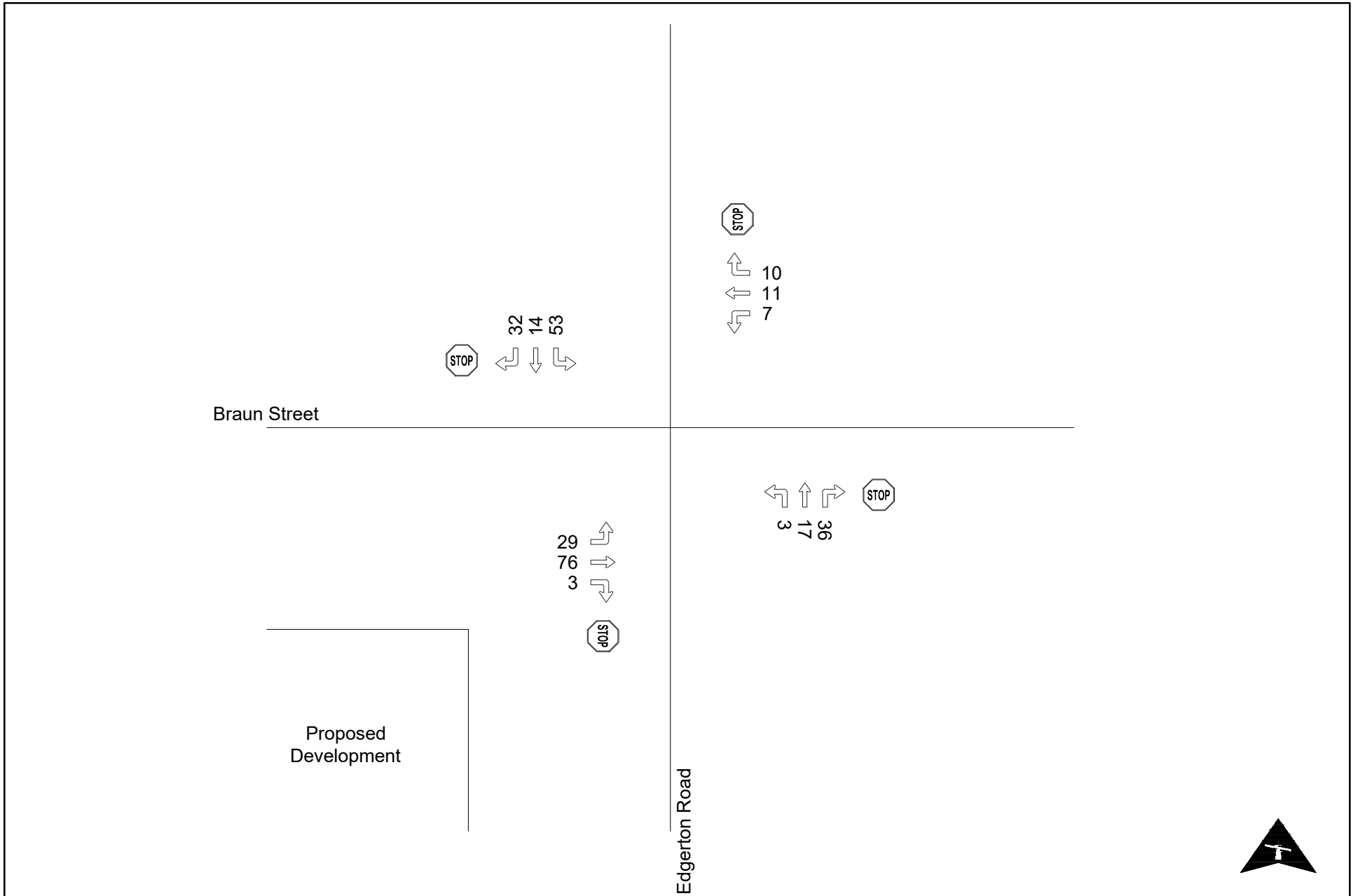
Vehicle Trip Generation per Dwelling Unit

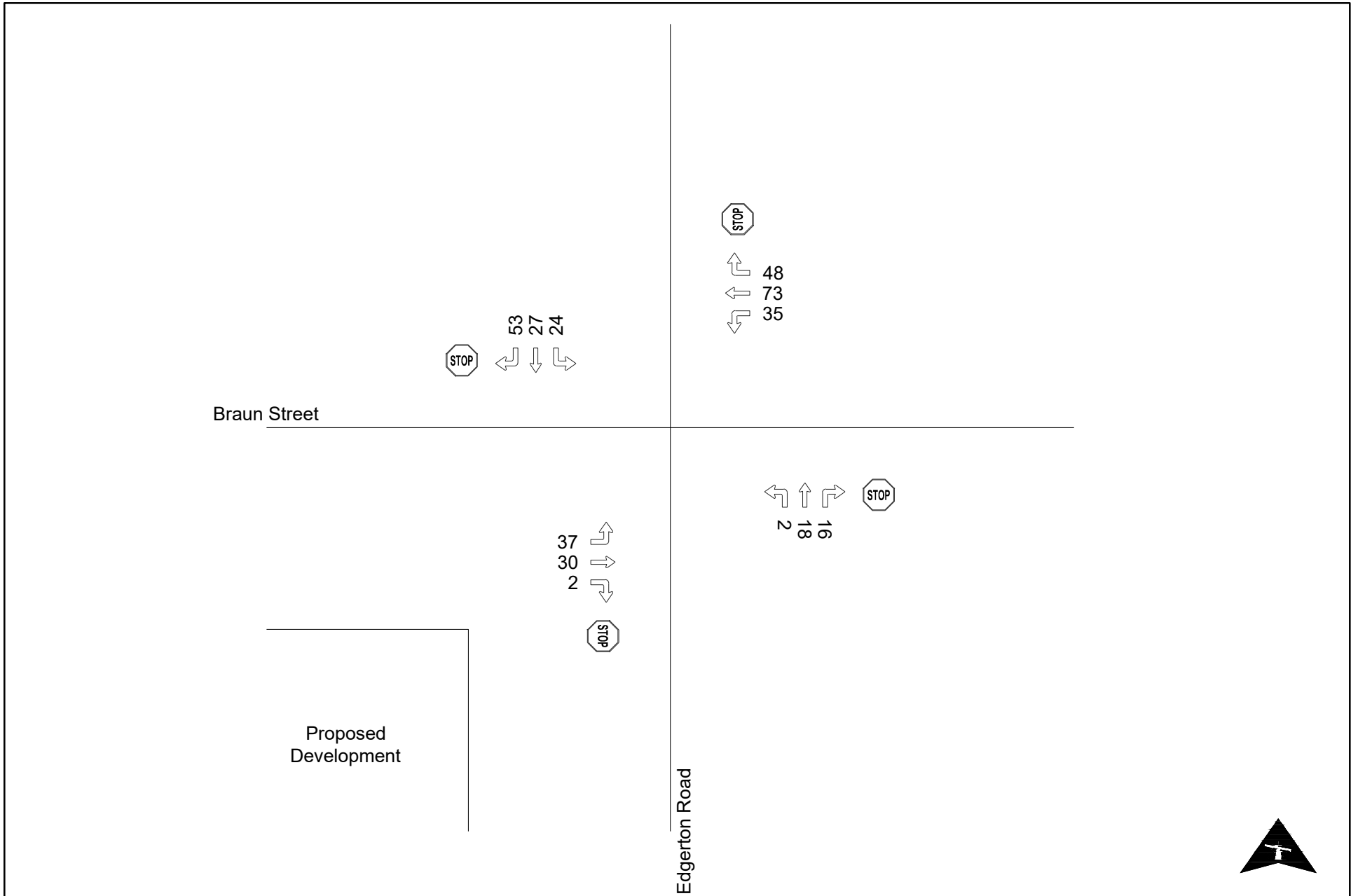
Average Rate	Range of Rates	Standard Deviation
9.43	4.45 - 22.61	2.13

Data Plot and Equation









HCS7 All-Way Stop Control Report

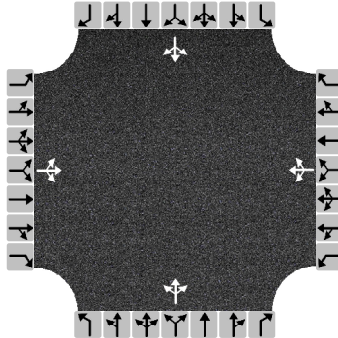
General Information

Analyst	Brett Louk
Agency/Co.	SMH Consultants
Date Performed	5/23/2022
Analysis Year	2022
Analysis Time Period (hrs)	1.00
Time Analyzed	7-8 am Existing + Dev
Project Description	Timber Creek Subdivision

Site Information

Intersection	W. Braun St. & Edgerton R
Jurisdiction	Edgerton, KS
East/West Street	W. Braun St.
North/South Street	Edgerton Rd.
Peak Hour Factor	0.82

Lanes



Vehicle Volume and Adjustments

Approach	Eastbound			Westbound			Northbound			Southbound		
Movement	L	T	R	L	T	R	L	T	R	L	T	R
Volume	29	76	3	7	11	10	3	17	36	53	14	32
% Thrus in Shared Lane												
Lane	L1	L2	L3	L1	L2	L3	L1	L2	L3	L1	L2	L3
Configuration	LTR			LTR			LTR			LTR		
Flow Rate, v (veh/h)	132			34			68			121		
Percent Heavy Vehicles	2			2			2			2		

Departure Headway and Service Time

Initial Departure Headway, hd (s)	3.20			3.20			3.20			3.20		
Initial Degree of Utilization, x	0.117			0.030			0.061			0.107		
Final Departure Headway, hd (s)	4.43			4.34			4.08			4.31		
Final Degree of Utilization, x	0.162			0.041			0.077			0.144		
Move-Up Time, m (s)	2.0			2.0			2.0			2.0		
Service Time, ts (s)	2.43			2.34			2.08			2.31		

Capacity, Delay and Level of Service

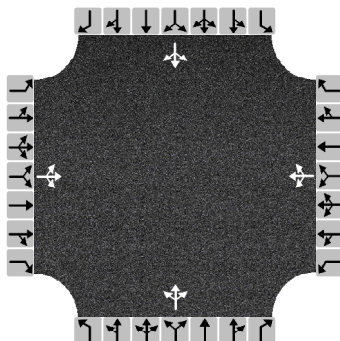
Flow Rate, v (veh/h)	132			34			68			121		
Capacity	813			829			882			836		
95% Queue Length, Q ₉₅ (veh)	0.6			0.1			0.3			0.5		
Control Delay (s/veh)	8.3			7.5			7.4			8.0		
Level of Service, LOS	A			A			A			A		
Approach Delay (s/veh)	8.3			7.5			7.4			8.0		
Approach LOS	A			A			A			A		
Intersection Delay, s/veh LOS	8.0						A					

HCS7 All-Way Stop Control Report

General Information

Analyst	Brett Louk	Intersection	W. Braun St. & Edgerton R
Agency/Co.	SMH Consultants	Jurisdiction	Edgerton, KS
Date Performed	5/23/2022	East/West Street	W. Braun St.
Analysis Year	2022	North/South Street	Edgerton Rd.
Analysis Time Period (hrs)	1.00	Peak Hour Factor	0.83
Time Analyzed	4:30-5:30 pm Exist + Dev		
Project Description	Timber Creek Subdivision		

Lanes



Vehicle Volume and Adjustments

Approach	Eastbound			Westbound			Northbound			Southbound		
Movement	L	T	R	L	T	R	L	T	R	L	T	R
Volume	37	30	2	35	73	48	2	18	16	24	27	54
% Thrus in Shared Lane												
Lane	L1	L2	L3	L1	L2	L3	L1	L2	L3	L1	L2	L3
Configuration	LTR			LTR			LTR			LTR		
Flow Rate, v (veh/h)	83			188			43			127		
Percent Heavy Vehicles	2			2			2			2		

Departure Headway and Service Time

Initial Departure Headway, hd (s)	3.20			3.20			3.20			3.20		
Initial Degree of Utilization, x	0.074			0.167			0.039			0.112		
Final Departure Headway, hd (s)	4.62			4.28			4.45			4.34		
Final Degree of Utilization, x	0.107			0.224			0.054			0.153		
Move-Up Time, m (s)	2.0			2.0			2.0			2.0		
Service Time, ts (s)	2.62			2.28			2.45			2.34		

Capacity, Delay and Level of Service

Flow Rate, v (veh/h)	83			188			43			127		
Capacity	779			840			809			829		
95% Queue Length, Q ₉₅ (veh)	0.4			0.9			0.2			0.5		
Control Delay (s/veh)	8.2			8.5			7.7			8.1		
Level of Service, LOS	A			A			A			A		
Approach Delay (s/veh)	8.2			8.5			7.7			8.1		
Approach LOS	A			A			A			A		
Intersection Delay, s/veh LOS	8.3						A					

PART I -- Chapter 4: TRANSPORTATION PLAN

The recommended plan provides a system comprised of two-lane roadways with paved shoulders, four-lane arterials, and boulevards/parkways. Roadways would be improved subject to the prioritization

through the “triggers” review process (described in a following section) and subject to available funding.

The CARNP map is illustrated on page 4-7.

TABLE 1: CORRIDOR DEVELOPMENT CATEGORIES

Item	Roadway Type			
	Type I – Low	Type II – Medium	Type III – High	Type IV – Major ¹
Functional Classification	Minor Arterial	Major Arterial	Parkway	Highway
Example Urban	143 rd at Mur-Len	Antioch/Blackbob	135 th /Northgate	K-7 North of K-10
Example Rural	143 rd West of Clare	175 th I-35 to US-169	None	K-7 North of K-10
Lanes – Urban	3-4	4-6	4-6	4
Lanes – Rural	2	2	2-4	2-4
Urban Speed Limit	35	45	45	60
Rural Speed Limit	45	50	55	65
Traffic volumes Urban ADT	7,500 - 20,000	9,150 - 40,000	9,150 - 50,000	18,300 - 70,000
Traffic volumes Rural ADT	2,000 - 7,500	2,000 – 10,000	7,500 - 30,000	18,300 - 50,000
Turn lanes	As required	All intersections	All intersections	N/A
Median breaks/street spacing (minimum)	1,000 ft.	1/4 mile	1/2 mile	N/A
Intersection Type	Stop/Signal	Signal	Signal/Grade separation	Interchange
Median breaks/street spacing (recommended)	1/4 mile	1/3 Mile	1/2 mile	At interchanges
Driveway corner clearance from centerline (min.) ²	600 ft.	600 ft.	600 ft.	N/A
Frontage - Driveway spacing ³	400 ft.	660 ft.	1000 ft.	N/A
R/W – Rural	80-120 ft.	120 ft.	150-200 ft.	200-300 ft
R/W – Urban ⁴	120 ft.	120 ft.	150-200 ft.	200-300 ft.
Bike lanes/paths	Planned routes	Planned routes	Planned routes	Planned routes

¹ No roads of Type IV are included in this plan.

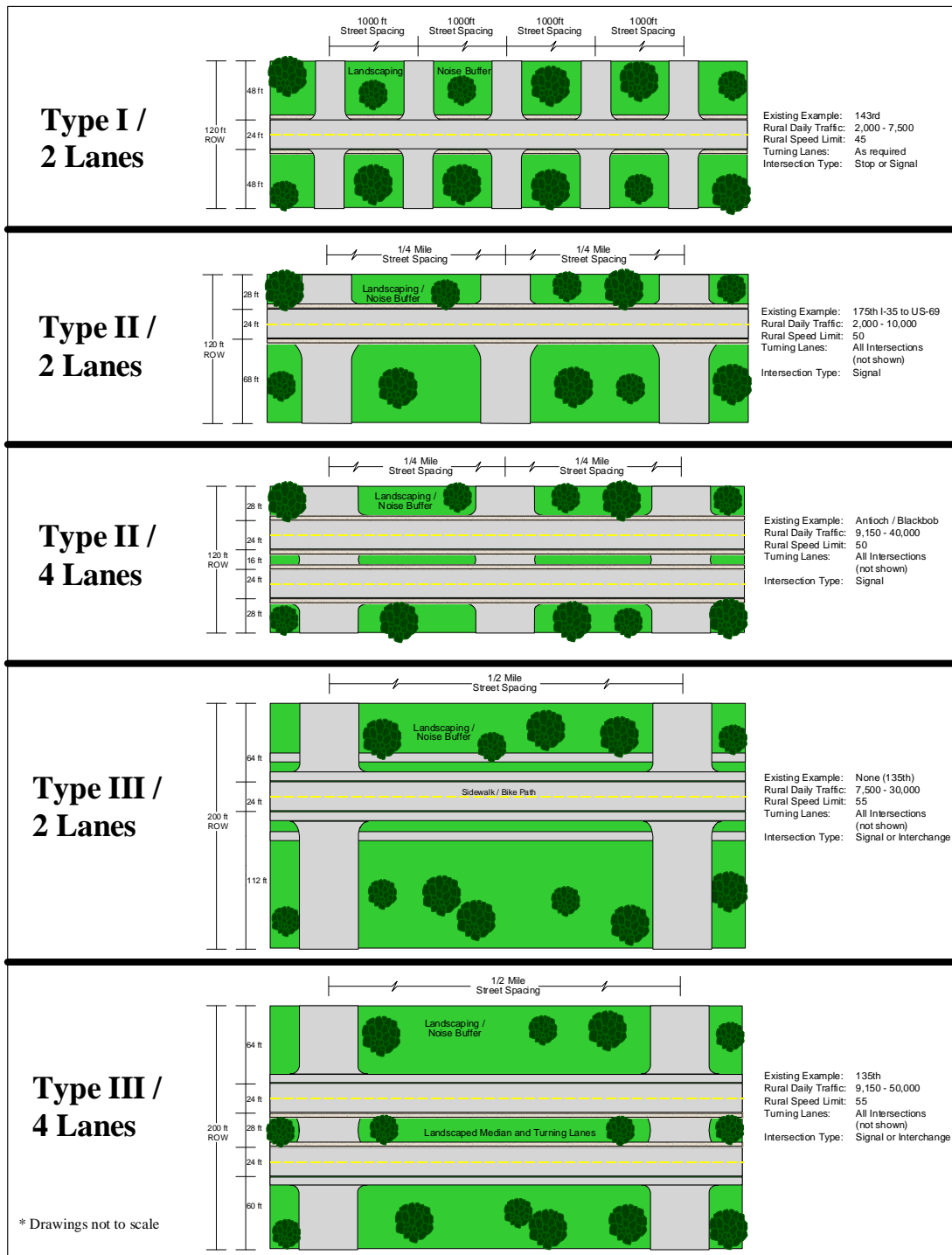
² Corner lots with less frontage than indicated are restricted to access along minor route.

³ Frontage required for each driveway.

⁴ Urban roads are not now in the study area, but are included here to show compatibility with rural requirements.

Source: Johnson County Public Works, BWR Corp, Cities of Lenexa, Overland Park and Olathe

FIGURE 1: CONCEPTUAL SCHEMATICS OF ROADWAY TYPES



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR _____ (Subdivision Name),
A SUBDIVISION TO THE CITY OF _____, KANSAS

KNOW ALL MEN BY THESE PRESENTS:

That _____ ("Declarant/Developer"), a Kansas limited liability company, being the owner and developer of the following-described property located in the City of _____, _____ County, Kansas, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO (the "Property")

said Property having been duly platted as Lots # _____ - _____, _____ (name of platted subdivision/addition), an addition to the City of _____, _____ County, Kansas, a copy of said Plat being attached hereto as Exhibit "B", and hereinafter referred to as "_____ (subdivision name) _____" ("the Subdivision"), this Declaration of Covenants, Conditions and Restrictions ("Declaration" or "Covenants") being for the benefit of Declarant and each successive owner of any Lot within the Property, and to provide for the efficient preservation and maintenance of the Property and Common Property contained therein, the Declarant desires to impose upon the Property the covenants, conditions, restrictions, easements, and charges contained in this Declaration and, further, shall create the _____ (subdivision name) _____ Property Owners Association, Inc., a Kansas non-profit corporation ("Association") to which will be delegated and assigned the power and obligation of maintaining the Property and Common Property and other Association business in accordance with the terms of this Declaration.

And the said Declarant, as owner and developer of said Property and Subdivision, does hereby state that these Covenants shall establish covenants running with the land for the period of time hereinafter set forth, as provided by law, and shall be binding upon all purchasers and owners of Lots within the Subdivision, and upon such owners' heirs, personal representatives, successors and assigns, and upon all persons claiming under them.

1. Definitions.

The following words, when used in these Covenants or any amendments or supplements hereto shall have the respective concepts and meanings set forth below:

"Addition" or **"Subdivision"** shall mean and refer to the Property described above.

"Association" shall mean and refer to "_____ (subdivision name) _____ Property Owners Association, Inc." established with or after the filing of this Declaration.

"Board" or **"Board of Directors"** shall mean and refer to the Board of Directors of the Association elected in accordance with the provisions of the ByLaws of the Association.

"Builder" shall mean a residential builder licensed under Kansas law.

"Common Property/Properties" shall mean and refer to the areas of mutual enjoyment and benefit within the Subdivision as identified on the Plat and to any and all other areas which service the Subdivision and Property or which is intended for or devoted to the common use, service and enjoyment of the Members of the Association, including but not limited to recreational facilities, trails, all sidewalks, easements, perimeter fencing, entry-ways and drainage retention/detention ponds. The Association shall hold such title to the Common Property as shall be consistent with the objectives envisioned herein and subject to the easement rights herein of the Members to use and enjoy the Common Properties or receive the benefits therefrom. The Declarant reserves the right to affect minor redesigns or reconfigurations of the Common Property and execute any open space declarations applicable to the Common Property.

"Declarant" and **"Developer"** shall mean and refer to _____ a Kansas limited liability company, and its successors and assigns.

"Lot" or **"Lots"** shall mean and refer to any plot or tract of land which is properly identified or designated as a lot on the Plat, but also may include lots within additional property upon and after the date which they are properly annexed or added to the Subdivision (as the context may require).

"Member" or **"Members"** shall mean and refer to each owner of a Lot.

"Owner(s)" shall mean the owner of a Lot and refer to each and every person or business entity who or which is a record owner or subsequently becomes a record owner of a fee or undivided fee interest in any Lot subject to these Covenants.

"Plat" shall refer to the plat of _____, filed of record in _____ County, on _____, Book _____, Page _____, and as attached as Exhibit "B".

2. Membership and Voting Rights in the Association; Additions.

(a) **Membership.** Every Owner of a Lot shall automatically be a member of the Association. In the event the Owner of a Lot is a corporation or partnership, a partner or corporate officer shall be designated to cast the vote on behalf of the partnership or corporation.

(b) **Voting Rights.** The Association shall have one (1) class of membership for purposes of voting. Owners shall be entitled to one (1) vote for each Lot owned by the Owner. Notwithstanding, the Declarant shall have four (4) votes per Lot on all matters until Declarant has conveyed 99% of the Lots to other Owners (at which time the Declarant shall have one (1) vote per Lot still owned).

(c) **Election of Board of Directors.** In addition to all other rights and privileges granted to the Declarant under this Declaration, and notwithstanding any provisions of the Bylaws to the contrary, the Declarant shall be entitled to appoint all of the initial Members of the

Board of Directors of the Association. This right shall continue until the sooner of when (1) the Declarant formally turns over control to the Association, which may be accomplished by the Declarant appointing replacement Directors consisting of Lot Owners other than Declarant or (2) the Declarant (or an affiliated successor thereof) no longer has any ownership interest in any Lots.

(d) Quorum, Notice and Voting Requirements. The quorum, notice and voting requirements of and pertaining to the Association are set forth within the Bylaws of the Association as the same may be amended from time to time. Subject to the provisions of Section (b) above and any other provision to the contrary set out in these Covenants or the Bylaws, any action by or on behalf of the Association, except for actions allowed to be taken by the Board of Directors alone, may be taken with the assent given in writing and signed by Members who collectively hold or control a majority of the outstanding votes of the Association.

(e) Additions to the Property/Subdivision. Additional tracts of land together with the improvements situated thereon may become subject to this Declaration and Covenants and added to the Subdivision if properly approved by procedures set forth in these Covenants or the Bylaws of the Association, or by the annexation of additional property which can be accomplished by Declarant (or an affiliated corporate owner) at any time without the joinder of any other party by recording a Supplemental Declaration hereto or by noting such annexation on a separate instrument/declaration for the additional lands to be annexed hereto. Upon doing so, any additional property subjected to this Declaration and added to the Subdivision shall be included in and deemed a part of the Association, subject to all rights, privileges, and obligations associated therewith pursuant to the terms hereof and the Bylaws

3. Assessments.

(a) Liens. Each Owner, except Declarant (affiliates), of any Lot, by the acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay the Association:

- (i) A one-time Initial Assessment upon receiving a deed for a Lot to supplement Regular Assessments for maintenance, taxes and insurance on Common Properties and other Association expenses.
- (ii) Regular assessments or charges for maintenance, operation, taxes and insurance on Common Properties as herein set forth and as established by the Association;
- (iii) Special assessments for capital or other improvements or acquisitions, which assessments are to be established and collected as hereinafter provided;
- (iv) Special individual assessments which might be levied against individual Lot Owners to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts of the individual Owner, his family, guests, or invitees and not caused by ordinary wear and tear;
- (v) Individual assessments and fines levied against individual Lot Owners for violation of rules and regulations pertaining to the Association and/or Common Properties; and

The annual and special assessments, together with interest, costs and reasonable attorney's fees required to collect the same, if any, shall be a continuing lien against the Lot owned by the party failing to make the payment as due. Assessments shall be made pursuant to the Bylaws of the Association.

(b) Purpose. The assessments levied by the Board on behalf of the Association shall be used to enhance the natural environment, appearance and beauty of the Subdivision, promote the health, recreation, safety, and general welfare of the residents, and support the operation and maintenance, repair and improvement the Common Properties.

(c) Deposit of Assessments. All sums from assessments or related payments shall be collected and held by the Association and shall be used for the purposes set forth in these Covenants and the Bylaws of the Association.

(d) Initial Assessment. Upon the conveyance and/or closing of any Lot (and for all closings or conveyances of the same Lot thereafter), the new Owner shall pay a one-time Initial Assessment in the amount of \$_____ (no proration). This Initial Assessment shall be collected at closing by the closing company/agent or shall be paid by the new Owner upon conveyance and/or closing, without additional notice required from the Association. The Board may waive or suspend this requirement but such a decision shall not affect the applicability and validity of future Initial Assessments.

(e) Regular Assessments. The initial annual assessment per Lot shall be \$_____. Thereafter, the assessment rate shall be set by a vote of the Board of Directors of the Association and may be adjusted annually as the Board determines is necessary. The Board shall give notice to all Members at least thirty (30) days in advance of the date all regular or special assessments are due. All regular assessments shall be collected in advance and shall be due on or before January 1 for the year it is due or whatever other date as amended by the Board. The Board of Directors may not increase the annual assessments by more than twenty-five percent (25%) over the previous year's assessment without the approval of a majority of the Lot Owners to raise their assessments.

(f) Special Assessments. In addition to the regular assessments authorized above, the Board may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of any of the Common Property capital improvements or easements within the Subdivision. The decision to make the special assessment and the amount of the special assessment shall be made in accordance with the Bylaws of the Association.

(g) Effect of Nonpayment. If any assessment or fine or any part thereof is not paid on the dates when due, then the unpaid amount of such assessment shall be considered delinquent and shall, together with any late charge and interest thereon at the maximum rate allowed under applicable law, and costs of collection thereof, thereupon becoming a continuing debt secured by a self-executing lien on the Lot of the non-paying Owner which shall bind such Lot in the hands of the Owner and Owner's heirs, executors, administrators, devisees, personal representatives, successors and assigns. The Board shall have the right to reject partial payments of an unpaid assessment and demand the full payment thereof. The lien for unpaid assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for any assessment provided herein by non-use of the Common Properties or abandonment of the Lot or House.

(h) Collection. No set-off shall be allowed to any Lot Owner for repairs or improvements, or for services contracted for by any Lot Owner without the express written authorization of the Board. The Board shall be entitled to collect from the Lot Owner all legal costs, including a reasonable attorney's fee incurred by the Association in connection with or incidental to the collection of such assessment, or in connection with the enforcement of the lien resulting therefrom. The lien of the assessments shall be subordinate to the lien of any bona fide first mortgage upon a Lot.

(i) Exempt Property. Any Property and/or Lots that are (i) owned by Declarant or (ii) designated as Common Property and owned by the POA shall not be subject to assessments as provided herein.

4. Duties and Powers of Association.

The affairs of the Association shall be conducted by its Board. In addition to the duties and powers of the Association as set forth in the Bylaws, or as hereinabove set forth, and in order to carry out the obligations of the Association, the Board shall have the following rights and powers and may provide for and pay for, out of assessments, the means to exercise the following rights and powers:

(a) Maintain and otherwise manage all the Common Properties and all improvements and landscaping on the Common Properties and at the entrances to the Subdivision, including provision for taxes, insurance and utilities which pertain to Common Properties.

(b) Hire legal and accounting services to serve the Association.

(c) Obtain and maintain such policy or policies of insurance as the Association may deem necessary or desirable in protecting the interest of the Association and its Members.

(d) Authority to employ a manager or other person under contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association including a yard maintenance service. The manager under contract may be affiliated with the Developer.

(e) Provide materials or other supplies or services which the Board may be required to obtain or pay for pursuant to these Covenants for the benefit of the Association.

(f) To enter into contracts, maintain one (1) or more bank accounts and generally to have all powers necessary or incidental to the operation and management of the Association.

(g) To execute all declarations of ownership for tax assessment purposes as necessary.

(h) To make reasonable rules and regulations for the operation of the Common Properties and to amend these Covenants from time to time.

(i) To request and accept funds from the Developer/Declarant, or an affiliated Builder, to support and subsidize Association matters and expenses, when necessary, and to

reimburse Developer/Declarant, or the affiliated Builder, for such funds upon receipt of written invoice/request.

5. Limitation on Liability.

The Association shall be entitled to all protections afforded under the Kansas General Corporation Act and any other laws providing protection to owner's associations. Neither any Member nor Owner, nor the Directors and Officers of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association or otherwise. Neither the Declarant, the Association, its Directors, Officers, Agents or Employees shall be liable for any incidental or consequential damages, for failure to inspect any premises, improvements or portion thereof, or for failure to repair or maintain the same.

6. Property Rights in the Common Properties.

(a) Members' Rights. Every Member and their family members has the non-exclusive right to benefit from, use and enjoy the Common Properties subject to all applicable codes and ordinances, including without limitation the right to benefit from any services, whether utility or otherwise, that the Common Property offers. Such right is an appurtenance to the Property and passes with the title to every Lot; provided, however, it does not give such person (excluding the Declarant) the right to make alterations, additions or improvements to the Common Property.

(b) Title to the Common Properties. The Declarant may convey title to the Common Properties to the Association, or in the case where easements constitute part of the Common Properties, Declarant may assign and transfer such easements to the Association, subject to the lien of taxes and assessments for the current year not yet due and payable, utility easements, pipelines, set-back lines, mineral interests and other restrictions of record. Upon such conveyance, the rights, obligations and liabilities with respect to any such Common Properties shall belong solely to the Association.

(c) Extent of Members' Rights in Common Property. The rights and easements created hereby shall be subject to the following:

- (i) All applicable local, state and federal codes, ordinances and restrictions, with specific regard to construction limitations and maintenance requirements as set forth herein or otherwise.
- (ii) The right of the Board to prescribe or to enact regulations governing the use, operation, and maintenance of the Common Property.
- (iii) The right of the Association in accordance with its Bylaws to borrow money for the purpose of improving, maintaining and servicing Common Property and facilities.
- (iv) The right of the Association as may be provided by its Bylaws to suspend the voting rights of any Member and to suspend the right of any individual to use any of the Common Property, including recreational facilities, for any period during which any assessment against a Lot owned by such Member remains unpaid, or for the misuse or abuse of any Common

Property or rights related thereto, including the right to seek reimbursement or damages from the delinquent Member therefor.

- (v) The right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, authority or utility for such purposes and upon such conditions as the Board of the Association may determine in its sole discretion.

(d) Recreational Facilities. The Common Properties may now or hereafter contain certain recreational facilities (pool, clubhouse, playground, etc.) constructed by Declarant, or its affiliate or assignee, for the use and enjoyment of Members. The Declarant may convey any such facilities to the Association as part of the Common Properties and the Association shall be responsible for all aspects thereof. The owner of the recreational facilities, whether the Declarant or the Association, may enact rules and regulations governing the recreational facilities and the use thereof, including setting schedules limiting the time of use, reserving recreational facilities for short periods of time to be used by certain Members, establishing rules for conduct, and any other rules deemed necessary by the Board. The Declarant or the Board may also extend the right to use the recreational facilities to invitees and guests of Member's subject to rules and regulations enacted by the Board. Such rules may include (i) charging a fee to Member's and/or their guests and invitees for use of the recreational facilities, (ii) the right to suspend a Member's right to use the recreational facilities for their conduct or the conduct of their guests or invitees, and (iii) to limit the number of guests and invitees that may use the recreational facilities. Use of the recreational facilities by Member's and their guests and invitees shall be at their own sole risk and all Members expressly assume all risks associated therewith.

7. Maintenance of Common Property.

(a) Association's Responsibility.

- (i) The Association shall maintain and keep in good repair, service, condition and function the Common Properties, including the recreational facilities, sidewalks and entrances. The Association shall also maintain any perimeter and/or screen fencing that may surround the borders of the Subdivision or divide parts of the Subdivision from properties (commercial or otherwise) outside of the Subdivision. The maintenance of the Common Properties shall include, without limitation, maintenance, repair, replacement, planting, sodding, and all other necessary maintenance and repairs of whatsoever nature as may be required by city, state or federal code or ordinance with respect to the Common Property and the facilities related thereto.
- (ii) The cost to the Association of maintaining the Common Property shall be assessed equally among the Members as part of the assessments pursuant to the provisions of these Covenants, except as otherwise stated herein.

8. Easements.

Other than for primary service of the Subdivision and within platted easements, there shall be no above-ground service for utilities except those lines or poles that shall be approved, in writing, by a majority vote of the Board. Each Owner shall be responsible for the protection of

underground utilities located on his or her Lot and shall prevent and be precluded from any alteration of grade or construction activity which may interfere with said utilities.

9. Use and Division of Lots.

No Lot may be divided or split. The Subdivision (and each Lot situated therein) shall be constructed, developed, occupied and used as follows

(a) Residential Lots. All Lots within the Subdivision shall be used, known and described as Residential Lots. Only one single family residential dwelling shall be permitted on each Lot. In addition, only customary and usual necessary structures may be constructed on each Lot as may be permitted by the City. No building or structure intended for or adopted to business purposes shall be erected, placed, permitted or maintained on any Lot. This Covenant shall be construed as prohibiting the engaging in or practice of any commerce, industry, business, trade or profession within the Subdivision and/or within any Lot. The restrictions on use herein contained shall be cumulative of and in addition to such restrictions on usage as may from time to time be applicable under and pursuant to the statutes, rules, regulations and ordinances of the City or any other governmental authority or political subdivision having jurisdiction over the Subdivision.

(b) Residential Purposes. By acquisition of any Lot within the Subdivision, each Owner (excluding bona fide home builders) covenants with and represents to the Declarant and to the Association that the Lot is being specifically acquired for the specific and singular purpose of constructing and using a single family residential dwelling thereon, or as a residence for such owner and/or owner's immediate family members.

(c) Submission of Plans. In order to maintain a beautiful and pleasing setting in the Subdivision two (2) sets of building and site improvement plans and specifications must be submitted to the Architectural Control Committee ("Committee") for its approval prior to the commencement of construction (this requirement shall not be applicable to the Declarant or any affiliates thereof). The Committee shall act to enforce the requirements of these Covenants in a reasonable manner. The Committee has the authority to maintain the architectural conformity of the Subdivision, and in consideration thereof shall determine that the proposed construction shall not detract from the development and shall enhance the purpose of the development to provide a beautiful and pleasing setting in the Subdivision. The Committee shall consider such matters as the proposed square footage, location, materials, exterior style and landscaping, etc. The Committee may adopt rules or bylaws explaining the mechanics of its operation and providing for a twenty-one (21) day maximum time within which plans must be reviewed and approved or disapproved after submission, and if not approved or disapproved in that period, that the same shall be considered as automatically approved. The Board may also exercise the duties of the Committee in the event the Board deems it necessary and efficient to do so.

(d) Minimum Square Footage. The minimum heated and cooled square footage for any single family home construction on the Lot within the Subdivision shall be _____.

(e) Architectural Requirements.

- (i) Each dwelling shall front a dedicated public street.
- (ii) No building shall be located closer to the street than the minimum building or set-back lines shown on the recorded Plat.

- (iii) All residences shall have roof shingles that are grey or black in color, preferably Weatherwood. Deviation from this color requires approval from the ARC

(f) Additions to Existing Structures. All additions shall conform to the basic styling and materials of the dwelling on any Lot. All additions shall fall within the building set-backs on said Lot and shall not be placed over any drainage or utility easement. All improvements shall be constructed in accordance to applicable City codes, rules and regulations. Any additions contemplated by the home owner or lot owner must submit plans prior to construction to the Committee for approval. The Committee has complete and sole discretion to approve, modify, deny or change any request for an addition to an existing structure.

(g) Surface Drainage. Each Lot shall receive and drain in an unobstructed manner the storm and surface waters from Lots and drainage areas of higher elevation and from public streets and easements. No Lot Owner shall construct or permit to be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across his Lot. The foregoing covenants set forth in this paragraph shall be enforceable by any affected Lot Owner and by the City.

(h) Garage and Detached Structures and Storage Buildings. No carports are allowed on the side, rear or front yards of any Lots. Each garage shall be fully enclosed and contain a full-length overhead style door. All garage doors are to be kept closed when not entering or exiting the garage. Any detached structure to be built on a Lot, such as a covered entertainment area, guest house, pool house, storage building, or other structure, shall conform to the basic styling and materials of the residential dwelling. Any detached structure contemplated for construction by any home owner or lot owner must, prior to construction, submit acceptable plans to the Committee for approval. The Committee has complete and sole discretion to approve, modify, deny or change any request for an addition to any existing structure.

(i) Temporary Structures. No trailer, mobile home, tent, construction shack, or other outbuilding shall be erected on any Lot in the Subdivision except for temporary use by construction contractors for a reasonable period of time.

(j) Fences. No fence shall be constructed on any said Lot in the area between the front building line of any dwelling and the front lot line of any said Lot. No fence on a corner lot shall be constructed beyond the side set-back line toward the street except for the community entry. Further, the placement/location of any perimeter fencing around the Subdivision as initially installed by the Declarant and/or original developer may not be adjusted, relocated or moved without the prior consent of the Committee and/or the Board. Any privacy fence shall be constructed so that the framing shall be toward the inside of the owner's lot. All fences must be installed by a professional installer and shall be six foot (6') wood privacy fencing with vertical boards (not horizontal) and no chain-link fences, wire, hog wire, or other similar materials shall be permitted. Prior to installation, the fence design and name of the installer must be approved by the Committee.

(k) Mailboxes. All mailboxes shall be approved by the United States Postal Service. The type of construction shall be consistent with the design established by the Developer. Community mailbox is an approved alternative subject to approval of the United States Postal Service.

(l) Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign advertising the Property for sale, resale or rent, or signs used by builder or agent to advertise the Property during the construction and sale of a dwelling thereon. In no event shall any such sign stand more than seven (7) feet above ground level, nor be more than five (5) square feet in size, nor be lighted at night. These signage restrictions and requirements shall not apply to Declarant.

(m) Parked Vehicles. All vehicles parked in the front of the front building line must be parked on the driveway. No inoperative vehicles of any nature shall be permitted to remain on any Lot or Lots for a period in excess of one (1) day. It is the intention of the Declarant that, except on special occasions such as holidays or events at an Owner's residence that all parking shall be in driveways and not on a street or on any yard. Accordingly, no vehicle shall be parked on the street for more than two (2) consecutive days and shall not be parked overnight on a street. Any violation of this section may result in a towing of the vehicle at the owner's expense per municipal regulations. No vehicle maintenance shall be performed on the streets or in the front yards or on parking pads of any Lot.

(n) Appearance of Lot. All Owners shall be required to keep their Lot in a clean and sanitary condition whether or not they have constructed a residence on the Lot. All open areas on Lots shall be kept mowed to a height of not more than six (6) inches. No playgrounds, swing sets, trampolines, swimming pools, picnic tables, or other similar equipment is allowed in the front yards of any Lot. The Board and Committee may promulgate rules and regulations regarding the maintenance of Lots and adequate enforcement mechanisms in the event a Lot is not properly maintained.

Upon failure of the Owner to maintain or landscape the grounds of any Lot in accordance with the provisions above, the Association may, upon 15 day's written notice to the Owner, cause the grass, weeds and vegetation to be cut. The cost of any maintenance required under this section and any enforcement costs shall be assessed to the Owner, and shall constitute a lien upon the Lot, and may be collected in accordance with Section 3.

(o) Recreational Vehicles and Accessories. No boats, trailers, recreational vehicles, and vehicles used for recreational purposes are allowed in the subdivision unless they will fit entirely into a private garage.

(p) Storage and Construction Materials. Construction materials may only be stored on a Lot for thirty (30) days prior to the commencement of construction. Thereafter, construction is to be completed within a reasonable period of time. The Declarant shall be allowed to store materials on a Lot in an orderly fashion as long as may be reasonably necessary.

(q) Garbage/Dumping. Dumping is prohibited in the Subdivision. All trash, garbage or other waste shall be kept in sanitary containers that shall be located at the rear of each residential unit or enclosed garages and must be out of sight from the street. All Lots shall be maintained in a neat and orderly condition at all times.

(r) Model Home and Construction Facilities. Model homes for the purposes of home sales are permitted by the Declarant. The garage of model homes may be used as sales offices. One trailer or temporary building may be located on a residential lot by the Declarant and used as a construction office until the Subdivision reaches one-hundred percent (100%) occupancy.

10. Nuisances.

No noxious or offensive activity shall be carried on in, upon, or around any residence or Lot or in or upon any Common Property or easement areas, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the remaining Owners or their tenants or licensees or any of them, which shall in any way interfere with the quiet enjoyment of such of the Owners, tenants, or licensees of his respective residence of Lot or which shall in any way increase the rate of insurance for the Property.

11. Regulations.

Reasonable regulations concerning the use of the Property, including Common Property and all other areas which the Association maintains, regardless of fee ownership, may be made and amended from time to time by the Association.

12. Enforcement of Obligations; Miscellaneous.

(a) Each Owner shall be governed by and shall comply with the terms of these Covenants and the Bylaws of the Association. Upon failure of an Owner to so comply, the Declarant, the Association, any mortgagees having a first lien, or other Owners shall have the right to institute legal proceedings, and the prevailing party shall be entitled to recover its or his legal costs, including reasonable attorney's fees. The failure of any of the foregoing named entities or persons to enforce any right, requirement, restriction, covenant, or other provision of the hereinabove named documents, shall not be deemed to be a waiver of the right to seek judicial redress against subsequent noncompliance therewith.

(b) Fines. The Association may levy reasonable charges, as an Individual Assessment, against an Owner and his Lot if the Owner or Resident, or the Owner or Resident's family, guests, employees, agents, or contractors violate a provision of the Documents. Fines may be levied for each act of violation or for each day a violation continues, and do not constitute a waiver or discharge of the Owners obligations under the Documents.

(c) Any and all of the provisions contained in these Covenants may be changed or amended at any time by a written instrument signed and acknowledged by the Declarant during such period that the Declarant (or an affiliated successor thereof) is the record owner of at least one (1) Lot, or alternatively these Covenants may be amended or terminated at any time by a written instrument signed and acknowledged by the Owners of sixty percent (60%) of the Lots. In the event of any conflict between an amendment or termination properly executed by the Declarant (during its ownership of at least one (1) Lot) and any amendment or termination properly executed by the Owners of sixty percent (60%) of the Lots, the instrument executed by the Declarant shall prevail during the time of the Declarant's ownership of at least one (1) Lot. The provisions of any instrument amending or terminating these Covenants shall be effective from and after the date it is properly recorded.

(d) Notice. Any notice required to be given to any Member or Owner shall deemed to have been properly delivered when deposited in the United States mail, postage pre-paid, addressed to the last-known address of the person who appears as the Member or Owner on the records of the county at the time of such mailing.

(e) Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of these Covenants shall be determined by the Declarant. These determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners.

(f) Subject to the amendment provisions above, these Covenants shall run with the land and shall be binding on all parties and all persons claiming under the land and the Property for a period of twenty (20) years from the date this instrument is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then-Owners of the Lots has been recorded agreeing to change said Covenants in whole or in part.

(g) If any provision of this Declaration or any section, clause, phrase, work or application thereof in any circumstance is held to be invalid, the validity of the remainder of these Covenants and of the application of the remaining provisions shall not be affected thereby.

IN WITNESS WHEREOF, _____, a Kansas limited liability company, has authority to cause these presents to be duly executed by the undersigned on this _____ day of _____, 20____.

(Declarant Name)

By _____

Title: _____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On the _____ day of _____, 20____, before me, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the _____ of _____ and whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal this _____ day of _____, 20____.

Notary Public
Filing No. _____

My Commission Expires:

(Seal)

EXHIBIT A

EXHIBIT B
Plat

City of Edgerton - 2nd Quarter 2022 Report
General Fund (Unaudited)

	YTD Actual	2022 Budget	% Used	Remaining
Revenues:				
Ad Valorem Tax	\$ 1,845,285	\$ 2,214,328	83.3%	\$ (369,043)
City TIF Increment	\$ (38,133)	\$ (38,157)	99.9%	\$ 24
Delinquent Tax	\$ 5,067	\$ -	n/a	\$ 5,067
Motor Vehicle Tax	\$ 25,374	\$ 52,830	48.0%	\$ (27,456)
Recreational Vehicle Tax	\$ 630	\$ 835	75.4%	\$ (205)
16/20M Vehicle Tax	\$ 375	\$ 375	100.0%	\$ -
Local Alcoholic Liquor Tax	\$ 4,352	\$ 5,000	87.0%	\$ (648)
Local Comp Use Tax	\$ 145,883	\$ 200,000	72.9%	\$ (54,117)
County Use Tax	\$ 66,578	\$ 100,000	66.6%	\$ (33,422)
Local Sales Tax	\$ 282,603	\$ 485,000	58.3%	\$ (202,397)
County Sales Tax	\$ 191,644	\$ 375,000	51.1%	\$ (183,356)
Franchise Tax	\$ 115,621	\$ 180,000	64.2%	\$ (64,379)
Licenses & Permits	\$ 63,203	\$ 224,000	28.2%	\$ (160,797)
Charges for Services	\$ 62,833	\$ 98,700	63.7%	\$ (35,867)
Fines & Forfeitures	\$ 42,050	\$ 75,000	56.1%	\$ (32,950)
Miscellaneous	\$ 9,703	\$ -	n/a	\$ 9,703
Investment Income	\$ 77	\$ 15,000	0.5%	\$ (14,923)
Total Revenue	\$ 2,823,145	\$ 3,987,911	70.8%	\$ (1,164,766)

Expenditures:				
General Government	\$ 441,480	\$ 1,050,748	42.0%	\$ 609,268
Law Enforcement	\$ 142,904	\$ 556,036	25.7%	\$ 413,132
Public Works	\$ 292,192	\$ 565,620	51.7%	\$ 273,428
Parks	\$ 128,982	\$ 315,043	40.9%	\$ 186,061
Facilities	\$ 44,534	\$ 143,570	31.0%	\$ 99,036
Fleet Maintenance	\$ 21,780	\$ 52,700	41.3%	\$ 30,920
Community Development	\$ 194,422	\$ 387,348	50.2%	\$ 192,926
Economic Development	\$ 75,867	\$ 506,700	15.0%	\$ 430,833
Information Technology	\$ 26,371	\$ 81,872	32.2%	\$ 55,501
Employee Benefits	\$ 228,518	\$ 555,093	41.2%	\$ 326,575
Total Expenditures	\$ 1,597,050	\$ 4,214,730	37.9%	\$ 2,617,680

Sources Over(Under) Expenditures: \$ 1,226,095 \$ (226,819)

Other Financing Sources & Uses

Transfers from Other Funds:

Transfer from Capital Projects Fund	\$ -	\$ -	n/a	\$ -
Transfer from TIF Funds-City TIF Fee	\$ -	\$ 17,656	0.0%	\$ 17,656

Transfers to Other Funds:

Transfer to Equipment Reserve Fund-General	\$ -	\$ (125,000)	0.0%	\$ (125,000)
Transfer to Capital Projects Fund	\$ -	\$ (195,000)	0.0%	\$ (195,000)

Total Other Financing Sources & Uses \$ - \$ (302,344)

Beginning Fund Balance	\$ 2,098,334	\$ 1,855,359
Estimated Ending Fund Balance		\$ 1,326,196
Unaudited Ending Fund Balance	\$ 3,324,429	

Reserve Required

17% of 2022 budgeted expenditures	\$ 716,504
25% of 2022 budgeted expenditures	\$ 1,053,683

Budget Authority

2022 Budget Authority	\$ 5,860,925
Remaining 2022 Budget Authority	\$ 4,263,875
% of Budget Authority Used	27.2%

City of Edgerton - 2nd Quarter 2022 Report
Water Fund (Unaudited)

	YTD Actual	2022 Budget	% Used	Remaining
Revenues:				
Charges for Services	\$ 222,072	\$ 462,222	48.0%	\$ (240,150.00)
Fines & Forfeitures	\$ 9,481	\$ 20,000	47.4%	\$ (10,519.00)
Miscellaneous	\$ 1,179	\$ -	n/a	\$ 1,179.00
Investment Income	\$ 20	\$ 2,500	0.8%	\$ (2,480.00)
Total Revenue	\$ 232,752	\$ 484,722	48.0%	\$ (251,970.00)
Expenditures:				
Fleet Maintenance	\$ 787	\$ 6,075	13.0%	\$ 5,288
Information Technology	\$ 16,177	\$ 49,878	32.4%	\$ 33,701
Production	\$ 85,527	\$ 175,000	48.9%	\$ 89,473
Distribution	\$ 22,543	\$ 54,505	41.4%	\$ 31,962
Administrative-Water	\$ 59,911	\$ 143,054	41.9%	\$ 83,143
Employee Benefits	\$ 14,819	\$ 36,429	40.7%	\$ 21,610
Debt Service	\$ 48,672	\$ 56,153	86.7%	\$ 7,481
Total Expenditures	\$ 248,436	\$ 521,094	47.7%	\$ 272,658
Sources Over(Under) Expenditures:	\$ (15,684)	\$ (36,372)		
Transfers to Other Funds:				
Transfer to Equipment Reserve Fund-Water	\$ -	\$ (25,000)	0.0%	\$ (25,000)
Transfer to Capital Projects Fund	\$ -	\$ -	n/a	\$ -
Total	\$ -	\$ (25,000)		
Beginning Fund Balance	\$ 168,723	\$ 176,502		
Estimated Ending Fund Balance		\$ 115,130		
Unaudited Ending Fund Balance	\$ 153,039			
Reserve Required				
17% of 2022 budgeted expenditures	\$ 88,586			
25% of 2022 budgeted expenditures	\$ 130,274			
Budget Authority				
2022 Budget Authority	\$ 661,224			
Remaining 2022 Budget Authority	\$ 412,788			
% of Budget Authority Used	37.6%			

City of Edgerton - 2nd Quarter 2022 Report
Sewer Fund (Unaudited)

	YTD Actual	2022 Budget	% Used	Remaining
Revenues:				
Charges for Services	\$ 278,706	\$ 761,529	36.6%	\$ (482,823)
Licenses & Permits	\$ 100	\$ -	n/a	\$ 100
Miscellaneous	\$ -	\$ -	n/a	\$ -
Investment Income	\$ 66	\$ 3,500	1.9%	\$ (3,434)
Total Revenue	\$ 278,872	\$ 765,029	36.5%	\$ (486,157)

Expenditures:				
Fleet Maintenance	\$ 2,263	\$ 6,075	37.3%	\$ 3,812
Information Technology	\$ 17,556	\$ 49,879	35.2%	\$ 32,323
Treatment Plant	\$ 104,658	\$ 195,674	53.5%	\$ 91,016
Sewer Line Maintenance	\$ 816	\$ 11,700	7.0%	\$ 10,884
Lift Stations/Vaults	\$ 9,756	\$ 34,562	28.2%	\$ 24,806
Administrative-Sewer	\$ 89,401	\$ 224,738	39.8%	\$ 135,337
Employee Benefits	\$ 21,258	\$ 63,261	33.6%	\$ 42,003
Debt Service	\$ 47,219	\$ 94,438	50.0%	\$ 47,219
Total Expenditures	\$ 292,927	\$ 680,327	43.1%	\$ 387,400

Sources Over(Under) Expenditures: \$ (14,055) \$ 84,702

Transfers to Other Funds:				
Transfer to Equipment Reserve Fund-Sewer	\$ -	\$ (25,000)	0.0%	\$ (25,000)
Transfer to Capital Projects Fund	\$ -	\$ (125,000)	0.0%	\$ (125,000)
Total	\$ -	\$ (150,000)		

Beginning Fund Balance	\$ 577,918	\$ 338,155
Estimated Ending Fund Balance		\$ 272,857
Unaudited Ending Fund Balance	\$ 563,863	

Reserve Required	
17% of 2022 budgeted expenditures	\$ 115,656
25% of 2022 budgeted expenditures	\$ 170,082

Budget Authority	
2022 Budget Authority	\$ 1,103,184
Remaining 2022 Budget Authority	\$ 810,257
% of Budget Authority Used	26.6%