

**PLANNING COMMISSION MEETING**  
**March 8, 2022**

A regular session of the Edgerton Planning Commission (the Commission) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on March 8, 2022. The meeting convened when Chairperson John Daley called the meeting to order at 7:00 PM.

**1. ROLL CALL**

Jeremy Little	present
Charlie Crooks	present
Tim Berger	absent
Deb Lebakken	absent
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
- Lee Hendricks, City Attorney
- Kara Banks, Marketing and Communications Director

- 2. WELCOME** Chairperson Daley welcomed all in attendance to the meeting.
- 3. PLEDGE OF ALLEGIANCE** All present participated in the Pledge of Allegiance.

**CONSENT AGENDA**

- 4. Approve Minutes from the December 14, 2021 Planning Commission Meeting.
- 5. Approve Extension of Site Plan Expiration Date for FS2019-02 TSL-Edgerton Phase II.

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

**REGULAR AGENDA**

**6. 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**

Chairperson Daley stated there will be two (2) public hearings for new items and an opportunity to hear public comment. He stated Mr. Lee Hendricks, City Attorney, will outline the public hearing process for these items.

Mr. Hendricks stated the 2 items up for a public hearing are a Preliminary Plat and a Final Site Plan and there were fourteen (14) people who signed up to speak. He explained the Preliminary Plat is for the unification and division of land and the Final Site Plan addresses any vertical construction. Each item will have a brief introduction by City staff, then the public hearing will be opened. At the conclusion of the public hearing, the applicant will be provided the opportunity to discuss their request. City staff will then present their Staff Report which contains their review of the project, and any additional questions City staff has gathered from public comment. He explained the Commission will then ask any questions they have for City staff or the applicant and allow responses from City staff or the applicant. The Commission will then take action on the application.

Mr. Hendricks explained public comment shall be limited to discussion specific to the application at hand. This is not an opportunity for a global discussion on the applicant, the property, or the project. Should a public commentor attempt to speak on matters outside those pertinent to the hearing, they will be asked to focus instead on issues related to the specific application or their time will be forfeited. He said the Preliminary Plat is a document that does not proceed to the City Council. The Commission reviews the plat to ensure that it meets or exceeds the requirements of Edgerton policies and regulations. Any discussion from the public should also focus on whether or not the proposed plat meets or fails to meet City policies and requirements. Only a subsequent Final Plat, as listed later on the agenda, will be presented to the City Council. Mr. Hendricks said the Final Site Plan will not go to the City Council as well. The Commission reviews Site Plan applications for conformance to City policy and regulations, such as zoning, parking design, site and building design, landscaping, traffic engineering, utilities, and stormwater, to ensure they too meet or exceed those requirements. Any discussion from the public should again focus on whether or not the proposed Final Site Plan meets or fails to meet City policies and requirements.

Mr. Hendricks explained the public hearings are not an opportunity to jointly filibuster or share a combined statement over multiple public comments, it is instead an opportunity to provide honest feedback on a proposal. He said all comments shall be limited to three (3) minutes and public comment for each item will not exceed one (1) hour.

**7. PUBLIC HEARING TO CONSIDER APPLICATION PP2022-01 FOR A PRELIMINARY PLAT FOR LOGISTICS PARK KANSAS CITY (LPKC) SOUTH, FOURTH PLAT LOCATED EAST OF THE NORTHEAST CORNER OF 207<sup>TH</sup> STREET AND GARDNER ROAD.** Applicant: Brett Powell, Agent – NorthPoint Development, LLC, Developer.

Chairperson Daley introduced the application. He stated the City Attorney outlined that public comment is only allowed during the public hearing. Once the hearing is closed, the time for comment has passed and no further comments from the audience will be taken. He reminded those in attendance that speaking time will be limited to 3 minutes per speaker and each hearing will be limited to 1 hour.

Chairperson Daley opened the public hearing for Application PP2022-01, Preliminary Plat for LPKC South, Fourth Plat. He said if a person has signed up to speak, they will be called forward as time allows. Once they are called up to speak, they will approach the podium to speak, and state their name and address prior to making their comments.

Mr. Chris Clinton, Planning and Zoning Coordinator, stated an email was received from Brett and Mindi Kuper, 22241 S Moonlight Road, Spring Hill, KS 66083, and printed out for the Commissioners to read at their daises.

Mr. Frank Bannister, 19815 S Gardner Road, Gardner, KS 66030, addressed the Commission. He said the posted agenda does not match what Mr. Hendricks just outlined. Mr. Hendricks asked if Mr. Bannister wanted to speak about the platting of the land or the vertical construction of the building. Mr. Bannister stated he wants to address all of the issues. He is opposed to everything being considered by the Commission because he lives near where the building is and will be occurring. He finds it unbelievable that the Commission is considering these items where people live. He is opposed to any changes to the use of the land east of Gardner Road. He wanted to know if the Commission was aware of the City being sued for the annexation and rezoning of the land east of Gardner Road. Mr. Hendricks informed Mr. Bannister they are not there to discuss any ongoing litigation and said there is no conflict between any ongoing litigation and the items being considered by the Commission during this meeting. Mr. Bannister asked if the City does lose the lawsuit, what is the back up plans the Commission has if it is deemed an illegal acquisition of land. He inquired what would the Commission do if the litigation is successful. Chairperson Daley said the Commission will answer questions will be provided after the public hearing.

Ms. Connie Mayberry, 20365 S Gardner Road, Gardner, KS 66030, approached the Commission. She said he is representing the Pearce Trust and their properties. The proposed buildings are going behind her house. She said when she looked at the map, it appears it is over on their property. She requested a meeting with a surveyor for the project and to discuss where the property lines are. She stated she is opposed to the construction but will address that during the next public hearing.

Ms. Jennifer Williams, 21993 Moonlight Road, Spring Hill, KS 66083, spoke to the Commission. She said there are 2 active lawsuits regarding this land east of Gardner Road. It is possible the courts rule that the land is not in Edgerton. She believes the zoning is inappropriate for this area. Some citizens in Miami County are attempting to create a new City for their own protection from NorthPoint. She stated the property owners are like the Ukrainian people having their land overtaken. They are waiting for litigation to conclude so they proceeded in the incorporation. She claimed people are dying of heart attacks and cancer from the stress caused by this development. NorthPoint are over a mile from the original development and are leaping frogging. She said the City Edgerton is no different than Vladimir Putin and Russia. She claimed it is the most un-American thing to occur. The property owners thought they had rights to the area. The planning and zoning of this area should be fair, but what is going on is not fair and there is nothing the neighbors can do about it. She pled the Commission to wait until the litigation was settled.

Mr. Hendricks addressed the Commission and the audience. He stated it is important for the public to be heard regarding these topics, but he requested that the speakers' comments remain relevant to the topics on the agenda.

Mr. Mike Duffield, 27555 W 207<sup>th</sup> Street, Gardner, KS 66030, spoke before the Commission. He said he too is against all of the items and agrees with the other speakers about the lawsuits and that the Commission needs to wait for those to be settled before proceeding. He feels NorthPoint and the City of Edgerton is being disrespectful to the courts and laws by not letting the lawsuits finish first.

Mr. William Bushno, 20685 W 207<sup>th</sup> Street, Gardner, KS 66030 addressed the Commission. He explained he had a project that he took before the Johnson County Planning Commission and there were people who objected to his development, including NorthPoint and the City of Edgerton. He stated he thinks this is premature replatting. NorthPoint has not completed the proper infrastructure of other developments to the east. The road along 207<sup>th</sup> Street is not finished and NorthPoint has not finished platting development along Waverly Road. He referenced the rezoning staff reports where he stated the stated it would be adversely affected due to the loss of the tax revenue. He is not questioning the fact NorthPoint can develop their land, he is questioning the methodology they have gone about doing so. He feels NorthPoint is not fulfilling the agreements with the City. He stated a 3-lane road was specified during the construction of Hostess and was agreed to, but that is not what was constructed. A result of the road not being constructed as specified is the death of Richard M. Clawson. Mr. Bushno explained he lives on the northeast corner of the intersection of 207<sup>th</sup> Street and Gardner Road. He thought NorthPoint would develop the road and not use other land. The City allowed to people occupy the Hostess warehouse before the road was finished. Hosted consolidated five (5) distribution centers into this one. Chairperson Daley informed Mr. Bushno that his time has expired.

Mr. Devin Self, 27200 W 215<sup>th</sup> Street, Spring Hill, KS 66083, approached the Commission. He stated he wants to echo what the others have said. These proposals are premature as the lawsuits are still ongoing and the infrastructure is not capable to handle the traffic. He said he has concerns regarding the Traffic Impact Study (TIS) as it does not recommend there be lanes added to Gardner Road nor have there been any easements granted to add the small turn lane that is recommended. He believes Gardner Road is the absolute bare minimum as he drives it daily. There are steep ditches from 199<sup>th</sup> Street to 207<sup>th</sup> Street on both sides of Gardner Road. The TIS does not discuss 207<sup>th</sup> Street to the east of the project to 169 Highway. He said not all of the trucks will go to Interstate 35 (I-35). Mr. Self said there will also be idling trucks and asked how it would be handled. It is common to have the truck idle overnight. He requested an answer from the Commission immediately. He also requested the Commission answer how the lighting will be handled. Chairperson Daley replied that those issues will be discussed during the Site Plan application.

Chairperson Daley stated that the public hearing on Application PP2022-01 has concluded. He requested the applicant present their application.

Mr. Brett Powell, agent of NorthPoint Development, LLC, who is the developer, addressed the Commission. He stated this Preliminary Plat is for 2 parcels that were legally rezoned on April 22, 2021. The replatting of the land would change the layout of the lots from

horizontal to vertical lots with 2 buildings. The drainage easement is being worked on with City staff and there will one (1) sewer main for both buildings in a proposed easement.

Chairperson Daley requested City staff present the Staff Report related to the review of Application PP2022-01.

Ms. Katy Crow, Development Services Director, stated the subject site is approximately 118.783 acres and are located within the Bull Creek watershed and was annexed into the City on December 17, 2020. Water will be provided by Johnson County Rural Water District #7, the City will provide sanitary sewer service, electrical service will be from Evergy, and Kansas Gas will supply gas service to the site. Police protection will be provided by the City through the Johnson County Sheriff's Office and Johnson County Fire District #1 will provide fire protection.

Ms. Crow said the subject site has been undeveloped since 2006 per the Johnson County AIMS map. The parcels were rezoned from Johnson County Rural (RUR) to City of Edgerton L-P (Logistics Park) on April 22, 2021. The Commission will be presented with a Final Plat and Final Site Plan application later this meeting. She explained the applicant has proposed combining 2 parcels into 1 and then dividing the new parcel into 2 lots with both having access from 207<sup>th</sup> Street. The Preliminary Plat request is being made in preparation for logistics park development. She stated the application was submitted to the City on January 18, 2022. The public hearing notice was published in the Gardner News newspaper on February 16, 2022 and on the same day, the applicant mailed public hearing notices as required by State statute to twenty-one (21) properties.

Ms. Crow explained City staff reviewed the Preliminary Plat in accordance with Section 13.3 of Article 13 of the Edgerton Unified Development Code (UDC). The only item City staff wanted to point out on the Preliminary Plat is there are no restrictive covenants shown and they will need to be shown on the Final Plat if there are any.

Ms. Crow stated the applicant is subject to all applicable City codes, whether specifically stated in the Staff 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.

She said City staff does recommend approval of Preliminary Plat Application PP2022-01 with the following stipulations:

1. All Preliminary Plat requirements of the City listed earlier shall be met or addressed.
2. All infrastructure requirements of the City shall be met.
3. All City Engineer comments related to the Stormwater Management Plan must be addressed.
4. Preliminary Plat shall be approved for a one-year period and shall be extended for an additional year upon the approval of a Final Plat for the same parcel of land or any part thereof. If a Final Plat is not approved for a portion or all of the land covered under the Preliminary Plat within 1 year, the Preliminary Plat shall be ruled null and void. The Commission upon submittal and approval of a written request may grant a one-year extension on the approval of the Preliminary Plat.

Chairperson Daley stated the Commission may ask questions to City staff or the applicant regarding the Preliminary Plat application.

Ms. Beth Linn, City Administrator, stated the questions raised by the public were written down. She requested Mr. Hendricks address the pending litigation.

Mr. Hendricks stated there are 3 pending lawsuits regarding the annexation and zoning of some of the parcels. He explained the pandemic has seemingly slowed resolution of all three lawsuits. The City has filed a Motion to Dismiss in one of the lawsuits. The other two are in the discovery phase, with the City intending to file for Summary Judgment. He explained none of the lawsuits involve wild claims of misconduct and are focused on procedural items. He said he was present for all of the meetings and feels the City feels comfortable with their position regarding these lawsuits. He explained there are specific actions that are needed to take place per state statutes for plaintiffs to follow and prove and those have not been done. It is not unusual for these matters be pending while applications are considered and voted on. Mr. Hendricks summed his explanation up by stating there are suits pending, but the suits in no way affect the Commission's ability to make a decision.

Ms. Linn stated NorthPoint can address the survey with the property owner as that is a private matter. She said there were lots of questions regarding infrastructure, lighting, idling trucks and those items would be better addressed during the Site Plan hearing. Concerning the installation of the 2-lane road and not the 3-lane road, Ms. Linn explained the City was limited on the right-of-way they were able to obtain and therefore, the road was constructed differently than what was shown. She said in no way does that impact the applications before the Commission this evening.

Chairperson Daley stated the plat is only changing the layout of the lots.

8. **CONSIDER APPLICATION PP2022-01 FOR A PRELIMINARY PLAT FOR LPKC SOUTH, FOURTH PLAT LOCATED EAST OF THE NORTHEAST CORNER OF 207<sup>TH</sup> STREET AND GARDNER ROAD.** Applicant: Brett Powell, Agent – NorthPoint Development, LLC, Developer

Commissioner Crooks moved to approved Preliminary Plat Application PP2022-01 with the stipulations outlined by City staff. Commissioner Little seconded the motion. Preliminary Plat PP2022-01 was approved with the stipulations, 3-0.

9. **CONSIDER APPLICATION FP2022-01 FOR A FINAL PLAT FOR LPKC SOUTH, FOURTH PLAT LOCATED EAST OF THE NORTHEAST CORNER OF 207<sup>TH</sup> STREET AND GARDNER ROAD** Applicant: Brett Powell, Agent – NorthPoint Development, LLC, Developer

Chairperson Daley introduced the item and requested the applicant present their application.

Mr. Powell addressed the Commission. He stated this application is similar to that of the Preliminary Plat. The 2 parcels will be split vertical, meaning north and south, instead of

horizontal, or east and west. He explained the stormwater comments will be addressed during the Final Site Plan hearing, but they have provided the information for the easement to the City Engineer. The proposed setbacks meet the City's code. The Final Plat does dedicate the proper amount of right-of-way to facilitate the construction of 207<sup>th</sup> Street. He stated this is another big investment in the area and NorthPoint understands the risk to move forward with the application.

Chairperson Daley asked City staff to present their findings from the Staff Report.

Ms. Crow explained the history and the information regarding the parcels were addressed during the Preliminary Plat application. She said City staff did have a few comments during review of the Final Plat and the requirements of Section 13.3 of Article 13 of the UDC. The applicant will confirm the monuments have been set upon recording of the Final Plat. The proposed stormwater detention area does extend to the property to the north that is not covered by this Final Plat. A drainage easement will be required for that area. The applicant has provided the drainage easement to the City Engineer for review. Upon approval of the easement by the City Engineer, the applicant is to record the easement with or before the Final Plat. The applicant has acknowledged the County will add their information upon recording of the Final Plat. The final comment City staff has is the Final Plat may not be recorded prior to receipt and approval of public infrastructure plans by the City Engineer. The applicant has acknowledged that requirement as well.

Ms. Crow stated City staff does recommend approval of Final Plat Application FP2022-01 for LPKC South, Fourth Plat, subject to the following stipulations:

1. The commencement of any improvements shall not occur prior to the approval and endorsement of the Final Plat by the Governing Body and the submittal and approval of construction plans for all streets, sidewalks, stormwater sewers, sanitary sewers, and water mains contained within the Final Plat.
2. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton UDC.
3. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton UDC.
4. All Final Plat requirements of the City list in the Staff Report shall be met or addressed.
5. If the Final Plat is not recorded with the Johnson County Register of Deed within 1 year after acceptance by the Governing Body, the plat will expire. Commission reapproval and Governing Body reacceptance is required for expired Final Plats.

Chairperson Daley stated the Commissioners may now ask any questions they have to the applicant or City staff.

Chairperson Daley asked if the detention area was not on the subject property. Ms. Crow replied it is on an adjacent property to the north. Chairperson Daley inquired if that property is owned by the applicant. Ms. Crow answered it is.

Commissioner Crooks moved to approve Final Plat Application FP2022-01 with the stipulations outlined by City staff. Commissioner Little seconded the motion. Final Plat FP2022-01 was approved with the stipulations, 3-0.

Ms. Crow stated the earliest Final Plat FP2022-01 will be presented to the Governing Body will be March 24, 2022. That date is dependent on the applicant addressing the comments in the Staff Report.

**10. PUBLIC HEARING TO CONSIDER APPLICATION FS2022-01 FOR A FINAL SITE PLAN FOR LPKC SOUTH, FOURTH PLAT LOCATED EAST OF THE NORTHEAST CORNER OF 207<sup>TH</sup> STREET AND GARDNER ROAD.** Applicant: Brett Powell, Agent – NorthPoint Development, LLC, Developer

Chairperson Daley opened the public hearing for Application FS2022-01, Final Site Plan for LPKC South, Fourth Plat. He stated if someone has signed up to speak, they will be called forward as time allows. Once a speaker is called, they will speak at the podium and state their name and address.

Ms. Mayberry addressed the Commission. She asked why a fence is proposed on the east side of the development when there is only farm ground on that side. She and her family are worried about the lighting and noise from the project which will be about 300 feet behind their house. She stated these warehouses are in someone's back yard. She does not think any of the warehouses are in somebody's backyard north of I-35. She requested the Commission to think how they would like the warehouses in their backyards. She claimed her parents were misrepresented and lied to by NorthPoint. She wants NorthPoint to be good neighbors.

Mr. Duffield spoke before the Commission. He said he is against the Site Plan. He feels the TIS is flawed. The TIS shows truck traffic coming from I-35 by either Gardner Road or Homestead Lane. He said there will be trucks going down other routes already and it will only increase. Trucks using roads not built for truck traffic is a safety issued. He said the TIS shows over 3,000 vehicles going to this area that have not been there before. He stated the roads are not improved in this area and Edgerton does not have right of way in this area to improve the roads. Mr. Duffield said he is also concerned about potential watershed issues. There is a small stream on his property that is downhill from this project, and the project will cause flooding. He claimed this project will cause water contamination to Hillsdale Lake where the residents get their water drinking. He said considering these applications is disrespectful to the judicial system. NorthPoint and the City are not being good neighbors if they do not let the lawsuits progress through the legal system.

Mr. Bushno spoke to the Commission. He said the TIS states 3,118 total trips per weekday. Failure to complete the required infrastructure did result in a death. That was complete negligence by the Commission and the City. He claimed if another person is killed on the roads before they are upgraded, it will remove the Commission's and City's qualified immunity.

Ms. Lora Winslow, 28640 W 207<sup>th</sup> Street, Gardner, KS 66030, approached the Commission. She stated her house is closer than Ms. Mayberry's. She stated her property line is twenty



(20) to thirty (30) feet to the proposed warehouse. She knows a berm is proposed along this property line, but it will not be tall enough and neither will any of the landscaping. She said she has videoed trucks turning around in fields and on the roads. She feels this is complete negligence on everyone involved. Ms. Winslow said the Commissioners are supposed to work for the residents not a large corporation. She claimed the property owners are losing value on their homes. Ms. Winslow stated she will no longer be able to hold events in their house because of the truck traffic and the smell of the exhaust. She inquired if any of the Commissioners have driven out there, and if they have not, it is a shame.

Mr. Mike McGuire, 20260 S Gardner Road, Gardner, KS 66030, addressed the Commission. He is concerned about the traffic and the lack of improvements made to the roads. The TIS estimated 60% of the traffic is to be on Gardner Road even though a vast majority of the improvements are to be on 207<sup>th</sup> Street. He stated Gardner Road is not built for the truck traffic. Mr. McGuire said that during the rezoning hearings the developer stated the rezonings were not leapfrog development, but he feels that it is. He claimed this land was illegally annexed into Edgerton via a ten (10) feet connection point. He understands NorthPoint needs to keep up with demand and he does not know how many available acres are west of I-35 for development, but he said there is room west of Gardner Road. He stated there is room north of the Hostess distribution center and next to Kubota. He claimed NorthPoint is leapfrogging their own land to develop this site. He said the construction will bring blasting and he warned of the gas well north of this area that has been providing the residents gas for fifty (50) years. He inquired as to who will compensate the people who could lose their source of heat.

Mr. Matt Combs, 20950 S Moonlight Road, Gardner, KS 66030, spoke before the Commission. He said he is echoing what his neighbors have said. He opposes all of the applications. He knows many have accepted the development, but the residents want to know why this area needs to be developed. He stated he has many questions regarding TIS. The ITE 154 code was used to get the vehicle trips data and it grossly underestimated the number of trips. He inquired if the will the Commission will hold the developer responsible to develop it to the standards of that code. Mr. Combs said the code uses 0.1 trips for every 1,000 square feet of warehouse. That would equate to 1.3 trips for an Amazon warehouse. Mr. Combs addressed Mr. Hendricks by stating everyone signed the same public hearing sheet because that is human nature. He said the same thing will happen when people leave the warehouses. He claimed they will all follow one another regardless of the suitability of the road.

Mr. Shawn Winslow, 28640 W 207<sup>th</sup> Street, Gardner, KS 66030 approached the Commission. He informed the Commission he lives just east of the development and has lived there for fifteen (15) years and raised eight (8) children. He stated his back yard is like a playground for the kids. He previously worked for a distribution center before and knows about the issues coming, such as regarding the noise and smog. He indicated his wife was incorrect and their house is forty-five (45) feet from the property line. He said is concerned about the berms and wants them to be higher since his house is so close to the development. He knows the area is going to be busy and does not want his animals and kids going there. He would prefer a wall or fence for separation between the 2 properties. He doesn't want trucks looking into his property and does not think it is unreasonable to ask for such an item

to provide security and privacy. He stated the site is a lot larger than his 5-acre lot and he wants his property to be blocked from the development. Mr. Winslow said he is also concerned about the truck traffic as west bound trucks are already going down 207<sup>th</sup> Street and this project will just increase the truck traffic. He stated there is a field that drains to his property, and he also wants to know where the water will go.

Ms. Jenni Koch, 27449 W 215<sup>th</sup> Street, Spring Hill, KS 66083, spoke before the Commission. She stated this area is where her and her family planed on building their lives. They are already seeing the truck traffic as there are trucks everywhere in this area. She claimed it is in the power of the Commission to stop the development. She inquired if any of the Commissioners have driven out by where the proposed project is. She said there are horses, dogs, and kids in this area. It is the Commission's role to make sure they preserve the property value, the public health, safety and welfare, and the peaceful and quiet enjoyment of property. She does not think approval of this project meets their role. She asked how the development fits where it is proposed. She said when she built her outbuilding, Miami County would not allow to put in a small washing machine, but now, a neighbor could put in a million square feet warehouse. She claimed no other jurisdiction would do this and this is not what being a good neighbor looks like.

Mr. Charlie Koch, 27449 W 215<sup>th</sup> Street, Spring Hill, KS 66083, addressed the Commission. He said it has been a little over a year since the rezonings. He stated everyone had their own perspective as to why this development didn't fit. That was about rezonings, and now the residents and Commission are talking about warehouses. He claimed the reasons brought forth during the rezonings still apply. This is not normal development for the area. He claimed this development does not happen anywhere else in the county where there are warehouses around houses. He said NorthPoint is taking tax benefits and doing the minimum they could do. There are infrastructure issues all over and truckers don't know where to go. He said the lawsuits regarding the annexation has not been tested in court and at any time a judge can say this is illegal.

Mr. Kuper handed out a copy of his email and photos to the Commission. Ms. Linn informed him those documents have been provided to the Commission before the meeting. He said he has lived in his house for eight (8) years. He said the truck traffic has increased on many roads making turns illegal turns and backing up while vehicles are behind the truck. Truck drivers are stopping and getting out of their truck to figure out where they are. These issues are just going to get worse with development. He claimed it is not a matter of if people are going to die, but when. He said he and his family and neighbors are afraid for their lives. These roads have no shoulders, and the trucks hog the middle of the road. The City can't keep kicking the can down the road when it comes to improving the roads. The proposed turning lanes are not going to help. He said if development continues, more people will get hurt as the roads cannot handle the traffic. He knows the Commission has many pressures, both seen and unseen. The decision is letting NorthPoint build or look after the safety of the people who live in the area. There needs to be actions taken before the warehouses are built.

Chairperson Daley closed the public hearing and requested the applicant present their project.

Mr. Patrick Robinson, NorthPoint, approached the Commission. He explained the engineers who worked on the Site Plan and the TIS are available for questions as well. He explained this project is a big picture prospective as these applications are an indication of the 100-plus cargo vessels waiting to get unloaded in different ports on the costs of the United States. Warehouses have an ongoing demand as people want next day or sooner delivery on their orders. What NorthPoint has presented is taking in account everything that has been discussed. He claimed the traffic counts are higher in another development similar to this one and the TIS is a conservative view as it overestimates the counts. He understands these are things that people do not want to hear. Mr. Robinson also stated that some of the streets that the addresses are on, like 223<sup>rd</sup> Street, is not in Johnson County and it becomes an issue of which jurisdiction can upgrade the road. Mr. Robinson claimed most of the trucks coming from this area will go west to I-35 as they follow their GPS. When he did it before the meeting, his directed him to Homestead Lane and I-35. He understands there is a lot of emotion and is happy to answer any questions. He explained since NorthPoint has entered Edgerton, there was about 100 million square feet of development, and the City has reaped many benefits from LPKC. NorthPoint continues to work with Johnson County and is also seeking help from the Kansas Department of Transportation and state senators. NorthPoint does have more property and they could connect to streets to the north if needed as development will continue and NorthPoint will look to distribute the traffic. He explained there will be a road going north to 199<sup>th</sup> Street that will help distribute traffic west of the current residential area. NorthPoint is listening to the citizens and City staff and that is why they do a TIS and line of sight drawings. He stated NorthPoint has lowered the tax burden on Edgerton residents and has helped improve the life for the citizens of Edgerton.

Mr. Powell addressed the Commission. He explained this project consists of 2 parallel 1.1 million square foot buildings. Access will be from 207<sup>th</sup> Street which will allow access to Homestead Lane and I-35. He explained the stormwater runoff from this project will be diverted north to another NorthPoint owned property. The typical measures that have been used in LPKC will be used at this project to protect the watershed. He claimed Hillsdale Lake is in better condition now than when NorthPoint started developing and said it is possible Hillsdale Lake has improved due to the development.

Mr. Powell explained these will be spec buildings as there is no tenant for them at this time. The berm, landscape and retaining walls do help screen the area from neighboring properties and the right-of-way. He explained the line-of-sight drawings provide an idea of what will be seen at the neighbors' homes. He stated the 3,000 trips mentioned in the TIS counts each trip to the warehouse as 1 and each trip from the warehouse as 1. So, each employee at the warehouse will be at least 2 trips per day.

Mr. Powell stated a KDHE Notice of Intent has been received which means KDHE has reviewed the plans for their Stormwater Pollution Prevention Plan (SWPPP). KDHE appears to be satisfied with NorthPoint's stormwater plans. NorthPoint has reached out to KDHE continuously to ensure they are doing the best they can in regard to stormwater pollution.

Mr. Powell explained the line-of-sight drawings. He said they extend from each house on either side with 3 standard views. The drawings show the added berms hide the dock doors. The berm extends north to hide dock doors from neighboring properties. He said the berms do hide the trucks and dock doors but are unable to hide the entire of the building. The

line-of-sight drawings show that the trucks cannot be seen from any house. He stated all of the lights are twenty-four (24) feet tall with a zero-foot-candle reading at the property lines and meets the UDC guidelines. He added the landscaping and berm shown in each line-of-sight drawing is doing what they supposed to be doing by blocking the trucks and lights. The fencing that is shown was added as the grades of the neighboring properties make it difficult to block the view of trucks. That is why the fence does not go along the entire eastern boundary of the project.

Ms. Linn informed the Commission that the line-of-sight drawings that are labeled with letters that appear alphabetically first are on the west side of the property and go north. Commissioner Crooks asked if the fence and landscape will be on the top of the berms. Mr. Powell said the fence will be on top of the berm landscaping towards the residence and it helps screens the trucks. Ms. Linn reiterated that it depends on the topography of all the parcels when it comes to the location of where the landscaping and berm is needed with the fence. She explained the red line on those drawings estimates what the line of sight would be. She stated as the grade changes, the line of view changes and what is needed to be done to screen the proposed project. The applicant provided a lot of sight lines to be as comprehensive as possible and show different ways screening could be accomplished. The line-of-sight drawings for 28752 W 207<sup>th</sup> Street were shown on screen and explained. Ms. Crow inquired to the location of the fence. Mr. Powell stated he is not sure exactly where the fencing will extend along the east berm. Ms. Linn stated the height of the berm changes to shield the truck as best as possible and the combination of the berm, landscaping, and fence make it possible. Chairperson Daley asked if the UDC requirement is to screen only the chassis of the truck. Ms. Linn stated she is unsure the exact requirements of the UDC, but City staff has taken a more extensive approach regarding the screening due to the proximity of residentially zoned parcels.

Mr. Powell explained the TIS was done and recommended the extension of the improved portion of 207<sup>th</sup> Street to the eastern property line. The TIS did overestimate the number of trips than what is normally seen. The TIS study did not recommend any improvements along Gardner Road and that street could handle the stress of the traffic if needed. He said NorthPoint improves the road as they develop so 207<sup>th</sup> Street will be upgraded as this development occurs.

Mr. Powell stated the sanitary sewer is being reviewed with City Engineer and it will connect to the Big Bull Creek Wastewater Treatment and is consistent with the master plan.

Mr. Powell addressed the question as to why a specific code was used for TIS. He explained the code is used because they typically know the use of the warehouses in LPKC, and it best estimates the traffic for those uses.

Chairperson Daley asked if the proposed buildings could be constructed to the west of Gardner Road. Mr. Powell replied Kubota owns a portion of the land between their current warehouses to Waverly Road. The space north of Inland Ports 51 and 52 are built-to-suit sites as there are easements and other restrictions on those properties east of Waverly Road to Gardner Road that NorthPoint owns.

Commissioner Crooks inquired about improvements to Gardner Road to the north of this site. Ms. Linn stated City staff will answer that question after the presentation of their Staff Report.

Chairperson Daley asked City staff present their findings in the Staff Report.

Ms. Crow stated the background information is the same that was presented during the Preliminary and Final Plat applications. She said City staff has reviewed the Final Site Plan submittal for compliance with the requirements in Section 10.1 of Article 10 and Section 5.2 of Article 5 of the UDC. She outlined City staff's review comments:

- City staff noted there are several parking stalls removed to add additional berming and landscaping on the west side of the project site. The submitted Final Site Plan does not reflect those changes which are shown on the Line-of-Sight drawings that were submitted. City staff has requested the applicant to update the Final Site Plan to match the Line-of-Sight drawings.
- The provided photometric plan shows a foot-candle reading of 0.0 at the property lines measured at five (5) feet above grade. These measurements show that no light will be spread across the property line at 5 feet above the grade even though the luminaire itself may be visible at the property line. Chairperson Daley asked what if City staff measures a reading that does not meet the UDC. Ms. Crow replied it is a violation of the Final Site Plan and City staff will ensure corrections are made for the site to be in compliance of the Final Site Plan.
- The City Engineer is currently reviewing a concept sanitary sewer plan. All comments arising from this review must be addressed prior to issuance of a building permit.
- Any proposed signage will be reviewed by City staff to ensure all requirements set forth in the UDC are met.
- City staff will continuously monitor the site to ensure all roof or ground mounted equipment and trash or recycling containers are properly located and screened from public view.
- The east façade of Inland Port (IP) 62 and the west façade of IP 61 have additional horizontal articulation at the mid-entry points due to the buildings' adjacency to residentially zoned parcels. On the east and west façades of each building, the applicant has provided 2 sections of 5-foot changes in depths after spans of thirty-five (35) feet at each corner of the building. These changes in depth at the corners meet the required calculations outlined in the UDC. Due to the length of these warehouse façades, the applicant has used paint color changes and the addition of 2 mid-point entry ways on the façades that are adjacent to residentially zoned property to contribute to horizontal articulation. City staff feels the articulation provided coupled with the changes in paint colors meets the spirit and intent of the code and recommends approval of this deviation.
- On the east and west façades of each building, the applicant has provided a changed in height of 2 feet that spans twenty-six (26) feet for every seventy-eight (78) feet of horizontal wall. At the mid-entry points, an additional four (4) feet of vertical change occurs that will span for 78 feet. The applicant has used changes in paint color, the addition of 2 mid-point entry ways on the façades that are adjacent to residential property, and more frequent, smaller changes in height to contribute to vertical articulation. City staff feels the articulation provided coupled with the

changes in paint colors meets the spirit and intent of the code and recommends approval of this deviation.

- The number of plantings provided on the proposed landscape plan do meet the requirements of the UDC. However, the height/caliper of the landscaping at the time of install has not been indicated on the Landscape Plan. The applicant will need to install trees that meet the two and a half (2.5) inch caliper requirement and shrubs will need to be at least twenty-four (24) inches in height at installation as required by the UDC.
- The applicant has provided Line-of-Sight drawings showing the screening of the trucks and chassis from multiple vantage points from neighboring properties. All the landscaping and berms must be maintained to ensure the screening is maintained. There is also to be a vinyl shadow box fence to be used along the east side of the property to ensure effective screening is accomplished. All of the fencing is to be maintained to ensure the screening is maintained.
- The applicant has requested access to this project from three (3) access points on West 207<sup>th</sup> Street. As part of the approval of this project, the applicant will improve 207<sup>th</sup> Street to a 3-lane section from Waverly Road to approximately half a mile east of Gardner Road at the east end of the proposed development's property line. The City will work with their partners in Johnson County to obtain the necessary easements for this infrastructure improvement. As recommended by the Commission and as referenced by County Commissioner Allenbrand at the February 17, 2022 Board of County Commissioners (BOCC) meeting, Edgerton staff continues to work with our partners as part of the Southwest Traffic Team to review truck routes and road needs.
- The applicant has submitted a Traffic Impact Study (TIS) which addresses the traffic impact for these 2 proposed buildings on the existing roadway network. This study evaluated the increased traffic on adjacent streets, access management, intersection sight distance, and auxiliary turn-lane warrants. This TIS concluded that a southbound left turn lane on Gardner Road at the intersection of 207<sup>th</sup> Street and Gardner Road is warranted. In addition, it was noted that the existing 207<sup>th</sup> Street and Gardner Road intersection does not have adequate pavement to accommodate truck traffic and should be improved in order to support a WB-67 truck turning movement. The TIS recommends that intersection improvements and the southbound left turn lane be constructed prior to project completion. The City will work with partners in Johnson County to obtain the necessary easements for this infrastructure improvement.
- The City follows National Pollutant Discharge Elimination System (NPDES) guidelines and stormwater management requirements which require any applicant to address runoff and water pollution mitigation measures as part of the development of the property. The applicant has submitted a stormwater management report to the City Engineer for review. All prior comments have been addressed. An erosion control and a Stormwater Pollution Prevention Plan (SWPPP) have been submitted and reviewed with no comments noted. The applicant will be held to the same stormwater standards as have been required with other development within LPKC. As requested by the Edgerton City Council, City staff met with representatives from the Kansas Department of Health and Environment (KDHE) to provide a tour of LPKC and the previous stormwater mitigation measures installed. Following the tour, the City received positive feedback regarding the stormwater management practices

already in place. In addition, the applicant is proactively working with KDHE to identify and install any additional stormwater mitigation measures requested by KDHE.

- A land disturbance permit from the City is required prior to construction.

Ms. Crow stated City staff does recommend approval of Final Site Plan FS2022-01 LPKC South, Fourth Plat subject to the following stipulations:

1. The staff recommendations and comments noted related to infrastructure, landscaping, the stormwater plan and all else discussed as included in the Staff Report are included as stipulations as part of approval of the Final Site Plan.
2. No signage is proposed with this application. Signage proposed later shall receive separate approval according to the provisions of the UDC.
3. All construction plans for any public infrastructure shall be prepared to City standards and approved by the City. The applicant has submitted a drainage easement to the City Engineer for review. Upon approval, the easement will be recorded either before or with the Final Plat.
4. Applicant/Owner Obligation. The Site Plan, a scale map of proposed buildings, structures, parking areas, easements, roads, and other city requirements (landscaping/berm plan, lighting plan) used in physical development, when approved by the Commission shall create an enforceable obligation to build and develop in accordance with all specifications and notations contained in the Site Plan instrument. The applicant prior to the issuance of any development permit shall sign all Site Plans. A Final Site Plan filed for record shall indicate that the applicant shall perform all obligation and requirements contained therein.

Ms. Linn wanted to address the concerns with lighting. She explained the photometric plan outlines the lighting on the project. The reading shown will be 0.0 foot-candles which means that there is not light being cast onto any neighboring properties. The light and the fixture may be visible, but there will be no additional light dispersed onto neighboring properties as required by the UDC. She said the City has not received any complaints to noise in any other areas of LPKC.

Ms. Linn explained that the City uses the National Pollutant Discharge Elimination System guidelines for stormwater. These guidelines resolve any questions or concerns about the amount or how the stormwater is handled and the water quality of Hillsdale Lake. She explained everyone in the room gets their water from Hillsdale Lake and the quality of that lake is important. Following the rezoning of these parcels, City Council requested City staff meet with KDHE to ensure all proper standards were being met regarding the stormwater. She said City staff provided KDHE a tour and KDHE provided great feedback and City staff continues to work with KDHE to improve techniques as needed. Any additional questions regarding flooding or the handling of stormwater can be answered by Mr. Powell or the City Engineer.

Ms. Linn explained how the line-of-sight drawings work and how to interpret them. Mr. Winslow insisted his issue is more about privacy for the home and backyard as the drawing provided addresses the front yard.

Chairperson Daley recessed the meeting for a short break at 8:58 PM. The meeting resumed at 9:05 PM.

Ms. Linn stated there was a lot of discussion about traffic. She said the TIS addresses the traffic impact for the proposed buildings on the existing roadway network. The study evaluated the increased traffic on adjacent streets, access management, intersection sight distance, and auxiliary turn-lane warrants. She explained the TIS concluded that a southbound left turn lane on Gardner Road at the intersection of 207<sup>th</sup> Street and Gardner Road is warranted. In addition, it was noted that the existing 207<sup>th</sup> Street and Gardner Road intersection does not have adequate pavement to accommodate truck traffic and should be improved in order to support a WB-67 truck turning movement. The improvements should be constructed prior to project completion. Ms. Linn added that in part of the approval of this project, the applicant will improve 207<sup>th</sup> Street to a 3-lane section from Waverly Road to approximately half a mile east of Gardner Road at the east end of the proposed development's property. She explained the City will work with their partners in Johnson County and other jurisdictions to obtain the necessary easements for these infrastructure improvements. As recommended by the Commission and referenced by County Commissioner Allenbrand at the February 17, 2022 Board of County Commissioners' (BOCC) meeting, Edgerton staff continues to work with their partners as part of the Southwest Traffic Team to review truck routes and road needs. She explained the TIS did differentiate between trucks and vehicles and did assume about eighty percent (80%) of trucks using Homestead Lane and 207<sup>th</sup> Street with sixty percent (60%) of passenger traffic using Gardner Road. Even when a scenario of all of the trucks using Gardner Road, the TIS did not change the recommendation of the improvements to Gardner Road. City staff is working with the Southwest Traffic Team, which is a regional partnership between Johnson County, Miami County, City of Gardner, City of Edgerton, and the City of Spring Hill. This partnership was formed to address truck traffic in this area. Ms. Linn explained in many instances, Edgerton does not control the roads as they are out of the City's jurisdiction. At this time, the Southwest Traffic Team has not designated a specific truck route and the City cannot dictate what other jurisdictions do or do not do with truck routes.

Chairperson Daley stated Edgerton cannot control all of the roads but what is controlled by the City is being improved to support the truck traffic. He explained residents of unincorporated Johnson County should request their BOCC members help the City to direct trucks correctly.

Chairperson Daley inquired if blasting would need to be done on the site. Ms. Linn replied the City is aware of the gas wells in the area but unsure if blasting will be needed. She explained blasting permits are approved by City staff and there are many requirements for that permit to be issued. One of the requirements is surveys of homes to be offered at no charge to the residents near the blasting area. The City partners with Johnson County Fire District No. 1 to ensure all requirements for blasting and safety are met.

Chairperson Daley asked about the red lines on the photo. Ms. Crow replied that a staked survey done by the applicant will ensure the applicant is doing work on their own land.

Chairperson Daley asked if the applicant is at risk if the City does not win one of the aforementioned lawsuits. Mr. Hendricks replied the City feels comfortable with the facts of



the case. He stated he was present of all of the meetings and noted there were no procedural items that would cause the case to go against the City. The case centers around one parcel that is not part of this project site, and he believes the City will win the case.

Chairperson Daley inquired if home values have dropped around this area. Ms. Linn responded City staff has not researched the values of nearby properties but there are many reports of increases across the County.

Chairperson Daley explained there is an area in Lenexa where warehouses are close to residential property. This situation is not unique to Edgerton or this area. Mr. Robinson added there are townhomes near Inland Port VI north of I-35. Chairperson Daley said he has driven out to this area many times and knows that the warehouses are proposed close to houses. He asked what the UDC requirements in terms of fencing for this project are. Ms. Crow replied there are no requirements for the applicant to fence the area and all UDC requirements have been met.

Chairperson Daley inquired to how close the house at 28640 W 207<sup>th</sup> Street is. Mr. Powell stated it is roughly 436 feet based on the line-of-sight drawing. Mr. Winslow said they spend a lot of time in the rear of their property which is why he is requesting additional fencing to protect his property. Chairperson Daley asked if the fence could be extended. Commissioner Crooks added if the applicant would be willing to work the resident to add the fencing. Mr. Robinson replied they will be happy to work with the applicant to reach an agreement as to where fencing could be added. Commissioner Crooks asked if the fencing will be added to the west side. Mr. Powell replied the topography allowed proper screening on the west side so fencing is not needed. Mr. Robinson added the floor of the building will be lower than where the person would be viewing the project.

Chairperson Daley added the stipulation that the applicant work with the property owner of the Winslow residence located at 28640 W 207<sup>th</sup> Street on the location of a fence.

Chairperson Daley explained the Commission has to respect all property owner rights. If somebody want to protect a view over vacant land, the best way to protect that view is to purchase the land. He believes it will be tough to find an open field in Johnson County soon.

11. **CONSIDER APPLICATION FS2022-01 FOR A FINAL SITE PLAN FOR LPKC SOUTH, FOURTH PLAT LOCATED EAST OF THE NORTHEAST CORNER OF 207<sup>TH</sup> STREET AND GARDNER ROAD** Applicant: Brett Powell, Agent – NorthPoint Development, LLC, Developer

Commissioner Little moved to continue Final Site Plan Application FS2022-01 until the April 12, 2022 Planning Commission meeting to allow the lawsuits an opportunity to move through the courts. Commissioner Crooks seconded the motion. Final Site Plan FS2022-01 was continued to the April 12, 2022, 3-0.

12. **FUTURE MEETING REMINDERS** Chairperson Daley stated the next regular session of the Commission is scheduled for April 12, 2022 at 7:00 PM.

13. **ADJOURN** Commissioner Crooks moved to adjourn the meeting. Commissioner Little seconded the motion. The meeting was adjourned at 9:30 PM.