

PLANNING COMMISSION MEETING
April 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 April 12, 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	present
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
Todd Luckman, Assistant City Attorney

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 March 8, 2022 Planning Commission Meeting.

Commissioner Crooks moved to approve the consent agenda. Commissioner Little 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

OLD BUSINESS

6. **CONSIDER APPLICATION FS2022-01 FOR A FINAL SITE PLAN FOR LPKC SOUTH, FOURTH PLAT LOCATED EAST OF THE NORTHEAST CORNER OF 207TH STREET AND GARDNER ROAD – CONTINUED FROM MARCH 8, 2022 PLANNING COMMISSION MEETING** Applicant: Brett Powell, Agent – NorthPoint Development, LLC, Developer

Chairperson Daley stated the public hearing for this item was held on March 8, 2022. There is no further public comment on this item during this meeting. He asked if any of the Commissioners had any additional questions.

Commissioner Crooks asked if the applicant had reached out to work with the neighbors regarding the fencing. Mr. Brett Powell, NorthPoint Development, replied he did have contact with the Winslows ten (10) days ago and they met onsite today, prior to this meeting, to discuss some possible solutions. Commissioner Crooks inquired if the applicant and Winslows were reaching a happy medium. Mr. Powell answered a few options have been discussed that could be used adjacent to Mr. Winslow's property.

Commission Little inquired if there has been any movement with the lawsuits. Mr. Todd Luckman, Assistant City Attorney, replied he is the City's lead counsel for the cases. He explained he can answer some questions that are not protected by attorney-client privilege. He said the cases have been on file for some time and the City is the defendant and has responded to all matters requested by the court in a timely manner. At this time, there have been no requests or orders by the court to stop any actions by the Commission and he does not know if there will be any resolution to the cases any time soon. Commissioner Little asked if there have been any conversations regarding the potential development of these parcels. Mr. Luckman replied he is unaware of any questions raised by any of the applications. The court has not advised the City of any schedule and there has not been any request to stop any applications by the courts.

Ms. Beth Linn, City Administrator, stated the City has received protest petitions for the Final Final Site Plan. Mr. Luckman explained the rezoning issue is already in court and a Site Plan is not an item where a protest petition can be submitted by right. He explained that is outlined by both by the State and the City. The protest petition is, therefore, not an official document the Commission has to take into account by law, but it can be considered like a public comment against the application. Mr. Luckman added any protest petition submitted does not change any vote requirements and public comments do not need to be taken again at this time since the public hearing was held last meeting.

Chairperson Daley clarified that there have been no status changes to the lawsuits. Mr. Luckman replied that is correct.

Commissioner Crooks asked if the road improvements will be complete prior to the building being completed. Ms. Linn answered that the road construction takes place at the same time as the building and the opening of the road will coincide with the issuance of a Temporary Certificate of Occupancy (TCO). She explained the main issue with constructing the road will be the acquisition of right-of-way. The City always has the best intention to have the road upgraded by the time a Certificate of Occupancy (CO) is issued, which means the construction of the building is done, but delays in obtaining right-of-way could delay the

road being complete. Commissioner Crooks inquired if it is possible to have the building open and operations going before the road is upgraded. Ms. Linn replied it is not the City's intention to have that happen but the process of right-of-way acquisition could take time. The City has used eminent domain before, and that is a lengthy process. The City will request help from other partners in development, like Johnson County, to negotiate easements and rights-of-way. Chairperson Daley asked if help is from private or public partners. Ms. Linn stated it has been both in the past. Commissioner Crooks asked if the issue of the road being upgraded has been addressed with the County. Ms. Linn answered it has been. Mr. Powell added NorthPoint also attempts to help in acquiring easements and right-of-way as they have a vested interest in the upgrading of the roads as well.

Commissioner Lebakken asked if this Final Site Plan is approved and the plaintiff wins the case, what would the applicant have to legally do. Mr. Luckman said he is not offering legal advice for NorthPoint, but the City would have to revisit the rezoning application as the courts typically will give a reason as to what needs to be reexamined regarding the rezoning. It would be unprecedented for the court to rule the land cannot be rezoned. The actions would not be improper from the City, but the Commission might have to revisit the rezoning application or applications. He stated it would be highly unlikely that a building has to be demolished. Chairperson Daley clarified it would be specific Golden Criteria that would need to be reexamined. Mr. Luckman stated that is correct. Commissioner Lebakken inquired what would the City need to do in case of a worst-case senior. Mr. Luckman explained the building or buildings would be in violation of the Unified Development Code and the City would have to address it as such. He does not believe there is much interest in the removing of improvements. Ms. Linn asked if the risk is more for the developer and not the City. Mr. Luckman answered that is correct and explained the court is not going to tell the City to take down a building and the official record of the City would reflect the default rezoning at the time of the annexation. Chairperson Daley stated the Commission should not stress about the risk to the City and should not make their decision on the worst-case scenario. Commissioner Lebakken replied she wants to be able to consider everything.

Commissioner Crooks inquired how a motion can be made to include a fence, regardless of whether or not the developer and neighbor can't come to an agreement or not. Chairperson Daley asked if a stipulation can be added to come to a mutual agreement. Commissioner Lebakken said it would be best to have the neighbors to be as happy as possible. Ms. Linn replied that the applicant has met the minimum standards of the UDC and has gone above what the UDC requires as shown in the line-of-sight drawings. She said there were other comments brought up by the public last meet and Mr. Powell has continued to work with the neighbor to come with an agreement on the fence. She said it would be in the best interest for the applicant to continue to work with the neighbors regarding the fence. Chairperson Daley said the UDC sets the bar, and the Commission can't continue to move the goal posts. Mr. Curt Peterson, NorthPoint, stated if Mr. Powell does not work with NorthPoint to reach mutual solutions there are consequences for when NorthPoint comes before the Commission in the future. Ms. Linn stated if the Commission wants to start requiring fencing around these types of projects, a discussion will need to be had to add it to the UDC. Commissioner Crooks said he would like to have that discussion. Ms. Linn stated said there are other instances of this applicant going above the UDC on other projects throughout Logistics Park Kansas City. Mr. Luckman added that he has concerns about open ended negotiations that have no end point from a legal standpoint. It is best to have a

deadline or what exactly needs to be installed. Chairperson Daley said he believes the applicant has met the UDC requirements and has gone above that as well. The applicant continues to fulfill their promises by working with neighbors when specific issues arise and there will most likely be more applications in the future.

Commissioner Crooks moved to approve Application FS2022-01 with the stipulations outlined in the Staff Report. Commissioner Lebakken stated she has to set personal feelings aside and vote with the facts as presented and seconded the motion. Application FS2022-01 was approved/denied/tabled to the May 10, 2022 Commission meeting, 2-1, with Commissioner Little casting the dissenting vote.

NEW BUSINESS

7. CONSIDER APPLICATION FP2021-05 FOR A FINAL PLAT FOR EDGERTON CROSSING LOCATED AT THE SOUTHWEST CORNER OF 199TH STREET AND HOMESTEAD LANE. Applicant: Shannon McMurdo, Property Owner

Chairperson Daley introduced the application. He requested the applicant present their project.

Mr. Buck Driggs, Driggs Design Group, approached the Commission and stated he is the engineer for this project. He explained the project is forty-two (42) acres, has C-2 (Heavy Service Commercial) zoning and is located at the southwest corner of 199th Street and Homestead Lane. He said he and his staff have been working with City staff for a few months to get any comments on the Final Plat resolved prior to bringing it to the Commission. He stated he is happy to stand for any questions.

Chairperson Daley requested City staff present their findings.

Ms. Crow stated this application is for a Final Plat located on the Southwest Corner of 199th Street and Homestead Lane. The property owner is Woodstone Properties, LLC and is represented by Shannon McMurdo. There are no current improvements on the site and it is zoned C-2, Heavy Service Commercial. The parcel is located within the Bull Creek watershed and was annexed into the City of Edgerton on February 24, 2011. Water service will be provided by Johnson County Rural Water District No. 7 and the City will be providing sanitary sewer services. Evergy will be the electrical provider and Kansas Gas Service will be providing gas to the property. Police protection will be provided by the City through the Johnson County Sheriff's Office and Johnson County Fire District No. 1 will be providing fire protection.

Ms. Crow said the parcel was rezoned from Johnson County Rural (RUR) to City of Edgerton C-2, Heavy Service Commercial, on July 14, 2011 by Ordinance 905. Ms. Crow reminded the Commission of the platting history of this parcel. On October 8, 2019, the Commission approved Application PP2019-04 for a Preliminary Plat of this same parcel. An associated Final Plat was never approved and pursuant to the Edgerton Unified Development Code (UDC), the Preliminary Plat became null and void. On November 9, 2021, the Commission approved Application PP2021-03 for a Preliminary Plat of this same parcel by the same Final Plat applicant, Mr. McMurdo.

Ms. Crow explained the applicant has proposed dividing the parcel into three (3) blocks. The 3 blocks are divided into 1 lot and two (2) tracts which are designated as non-buildable parcels, reserved for future platting and development. There are 2 additional tracts which will be used for stormwater detention. This Final Plat request is being made in preparation for commercial development which would serve the residents of Edgerton, the patrons, and employees of Logistics Park Kansas City (LPKC), and travelers along the Interstate 35 (I-35) corridor.

She informed the Commission that proposed access to the site is from Homestead Lane via the extension of West 200th Street and from 199th Street via Jubilee Street. Jubilee Street will provide full access to the development from 199th Street and will run north/south, parallel to Homestead. Access further south into the development would continue along this newly constructed Jubilee Street through a roundabout at 200th Street.

Ms. Crow said City staff has reviewed the Final Plat submittal for compliance with the requirements in Section 13.3 of Article 13 of the Edgerton UDC. One comment City staff has is that upon recording of the Final Plat, the County will add their seal and information to the document. This is a standard comment on Final Plat application.

Ms. Crow indicated that sanitary sewer plans have been reviewed by City staff and have received Kansas Department of Health and Environment (KDHE) approval. Roadway infrastructure plans are still under review by City staff and the City Engineer. The Final Plat should not be recorded prior to the City receiving and approving all public infrastructure plans. The applicant has acknowledged both comments and will continue to work with the City on the infrastructure plans.

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. Various permits may be required in order to complete this project.

Ms. Crow explained City staff does recommend approval of Final Plat Application FP2021-05 for Edgerton Crossing, 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, storm water 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 their Development Agreement with the Edgerton City Council dated September 10, 2021 which satisfies the requirements of Financial Assurances as defined in Section 13.7 of the Edgerton UDC.
4. All City Engineer comments related to the Stormwater Management Plan must be addressed.

5. All Final Plat requirements of the City listed in the Staff Report shall be met or addressed prior to recording of the Plat.
6. If the Final Plat is not recorded with the Johnson County Register of Deeds within 1 year after acceptance by the Governing Body, the Final Plat will expire. Commission reapproval and Governing Body re-acceptance is required for expired Final Plats.

Ms. Crow informed the Commission that they will be recommending either approval or denial of the application to the Governing Body. If the Commission recommends approval, the Final Plat will be presented to the Governing Body on April 28, 2022, subject to the applicant making the necessary corrections in a timely manner.

Commissioner Crooks inquired if this is the time to discuss berming. Ms. Crow replied that is only the platting of the ground and discussion of any built items will come when Site Plans come forward. She stated no Site Plan applications for this parcel have been received at this time.

Ms. Linn explained the Final Plat does dedicate the entire right-of-way for the new Jubilee Street and allows access to the parcel to the south.

Commissioner Crooks asked if the full access intersection at 199th Street is in the best location as proposed. Ms. Linn answered the proposed location is the best location due to Kansas Department of Transportation (KDOT) right-of-way. She explained that access to this parcel has been reviewed extensively with KDOT and the City Engineer to allow access at 200th Street and 199th Street. Commissioner Crooks inquired if the 200th Street on this parcel lines up with the 200th Street on the other side of Homestead Lane. Ms. Linn replied that it does. Commissioner Crooks asked if a stop light will be constructed at this time. Ms. Linn answered the traffic counts do not warrant one at this time, but eventually one will and the cost of the signal have been included as part of the Tax Increment Financing District.

Commissioner Crooks moved to recommend approval of Application FP2021-05 with the stipulations outlined by City staff. Commissioner Little seconded the motion. Final Plat FP2021-05 was recommended for approval with the stipulations outlined by City Staff, 3-0.

7. DISCUSSION REGARDING PLANNED UNIT DEVELOPMENTS (PUD)

Ms. Crow said the rising cost of infrastructure, land and raw materials has led to increased sales prices for new home development. This has proven to be detrimental to first time home buyers and those with a growing family who are looking to move up to the next size home. City staff has recently received inquiries from residential developers regarding the use of Planned Unit Development (PUD) in the City of Edgerton. She explained the memo and the Quicknotes briefing from the *American Planning Association (APA)* located in the Commissioners' packet, will provide an introduction to PUDs and how they can be a tool used to help facilitate the development of residential neighborhoods. Also included in the packet was Article 6 of the UDC, which outlines the process today in Edgerton.

Ms. Crow stated building materials, labor costs, supply chain issues, cost of lot development, infrastructure and local regulations are all contributing challenges related to new home development. A 2021 housing study in Johnson County indicated that reducing

the minimum lot size required by a City's development code, opened more attainable housing option with lower lot and public infrastructure costs per lot. Today, the minimum lot size in Edgerton is seventy (70) feet wide by 110 feet deep with an increase to an eighty (80) foot width on corner lots. Flexibility in the lot size requirement allows developers and home builders to add more housing to a subdivision which in turn spreads the fixed costs over more homes. For an example, Ms. Crow said on a 700-foot stretch of roadway, ten (10) 70-foot-wide lots can be developed or decrease the lot width requirement and fourteen (14) fifty (50) wide lots can be developed. This increased density, also called up-zoning, allows for additional homeowners in that particular neighborhood who can help absorb the fixed costs of the development related to infrastructure. This in turn lowers the overall cost for everyone.

Ms. Crow explained the use of a PUD in the development process allows for the aforementioned flexibility in lot size. There is a give and take associated with PUDs. A developer might be allowed to build homes on smaller lots in exchange for providing extra amenities in the development like green spaces, trail systems, street trees, sidewalks, and auxiliary parking areas. In addition, these neighborhoods come with a Homeowners Association (HOA) which enforces a set of rules, also known as covenants, conditions and restrictions, that all property owners within the HOA are required to comply with. The covenants, conditions, and restrictions (CCRs) are provided to home buyers when they close on the property and there are processes put in place by the HOA which hold the property owners accountable for things like home maintenance, lot improvements, and on-street parking.

Ms. Crow stated the article entitled "*Understanding Planned Unit Development*" is included in the packet. It was published by the APA and provides a brief but comprehensive overview of what a PUD is and how they work. She said PUDs are not just for residential neighborhoods. They can be used to allow a mix of nonresidential and residential uses of mixed density. Every city is different so it is important to understand when the time is right to use a PUD and how it could benefit both the community and the developer.

Ms. Crow outlined the steps in the PUD process. The first one is the rezoning, which is outlined in Article 6 of the UDC. PUD is a zoning designation and so a rezoning application is required. The second step is a Conceptual Plan. She explained PUDs are different than the typical development process in that a Conceptual Plan gets submitted in place of a Preliminary Plat. Article 6 has very specific submittal requirements for the Conceptual Plan. Like a Site Plan, a variety of information is required so that everyone has a clear understanding of the way in which the property is intended to be developed. Lot sizes, land use patterns, site data, environmental information, traffic analysis, and market analysis are just some of the items required when the application is submitted. She stated that upon receipt of PUD rezoning and Conceptual Plan applications, City staff would review the submittal during the pre-application process to ensure the proposed plan submitted is in accordance with the parameters set forth by the UDC. The 2 applications would be presented as 2 separate items but at the same Commission meeting. Both items would require a public hearing. If the rezoning did not receive approval to be rezoned to a PUD, the Conceptual Plan would not move forward during the meeting. If both applications are recommended for approval, both items then continue to the City Council for final

acceptance. This is different than the typical development process as the Preliminary Plat and Site Plan are not reviewed by the Governing Body.

Ms. Crow explained the next step is Final Development Plan and Plat. Once the rezoning and Conceptual Plan review acceptance from the Governing Body, the applicant can then proceed with reasonable assurance that if the agreed to concept is carried forth, Final Development Plan and Plat approval will be granted. She said the Final Development Plan and Plat is a precise plan of development that shows the exact location of facilities, arrangement of streets and lots, open space and common areas and the final survey description. The Final Plat may be submitted in stages with each stage reflecting the approved Conceptual Plan, provided that each stage submitted conforms to all regulations. The Final Development Plan and Plat are reviewed by the Commission and if recommended for acceptance, the applications move on to the Governing Body for approval.

Ms. Crow said the final step is for any changes. Once approved, the Final Development Plan represents a binding agreement with the applicants and their successors. Any changes or amendments to the PUD must be made in accordance with the parameters outlined in the UDC. Changes deemed minor may be reviewed at a regular Commission meeting after being published on the agenda. The method in which major changes are approved varies, depending upon when the change is made and what the change is made to.

Ms. Crow concluded that when used correctly, PUDs can allow the flexibility necessary to bring a variety of housing appropriate for all types of residents. When properly designed, a PUD Conceptual Plan allows for creativity in land planning and site design, and it is important to understand how the PUD Conceptual Plan fits with the Comprehensive Plan. To date, Edgerton has not received a PUD application, but City staff thought it would be important to explain what one is that the Commission can be familiar with the process that governs this important tool in the development process. She stated City staff will be happy to answer any questions about PUDs.

Ms. Linn explained the zoning is the use of the development, the plat is horizontal development, and the site plan is the vertical development. A PUD muddies the water as all of the development items are mixed together. Since the developer typically wants to do things that a one lot development would not be able to, the Commission needs to understand each component individually. Chairperson Daley asked if there has been kickback regarding the lot width outlined in the UDC. Ms. Linn replied that the City has met with many residential developers and used to stand firm on the 70-foot requirement, but the pandemic and the increased price on materials has caused major changes to the housing market. She explained for a residential developer to decide to build in the City, the lot width will most likely be less than what the UDC requires. Commissioner Crooks inquired if a study has been done on 50-foot lot width with lots of cars parked on the street. Ms. Crow answered that is why there will most likely be an HOA in the development. An HOA can be stricter than the City and homeowners know a head of time those requirements before moving in. She and City staff knows that nobody wants another development like the horseshoe, but it is possible to achieve a good development with smaller lots depending on how the development is accomplished and how the lots are laid out. She explained an HOA will not encompass the existing homes in Edgerton, just those that are developed under a PUD.

Ms. Linn said all of the items in R-1, Single Family Residential, are addressed in the PUD Article, but there are many other pieces to a development and the PUD Article attempts to blend all of the concepts together. Commissioner Lebakken inquired about the lot width of the lots on the horseshoe development. Ms. Crow and Ms. Linn were not sure at this time but estimated close to sixty (60) foot lot widths. Ms. Linn stated those are all questions that will be asked during conversations with the developer. Commissioner Crooks stated there are only twelve (12) feet between homes. Ms. Crow agreed and stated a PUD has some restrictions like that seen in R-1. Commissioner Crooks commented that houses that are close together are popular in western states as well. Ms. Crow added those types of developments are being done in the Kansas City metro area as well. There have been some in Lenexa, Overland Park, Olathe, and they are all being done differently. She stated everyone has been thinking about traditional residential development, but it has changed recently and forced City staff everywhere to think differently. Ms. Crow stated she will provide a list of some neighborhoods for the Commissioners to drive through to see how a PUD could look in Edgerton.

8. DISCUSSION REGARDING DEVELOPMENT CALENDAR

Ms. Crow stated it has recently been brought to City staff's attention that it would be beneficial for the Commissioners to receive the packet earlier than the Friday before the scheduled meeting. She stated that the current UDC requires applicants to follow certain deadlines for application submittals. The deadlines allow City staff to publish the packet four (4) days prior to the scheduled meeting. An example of the deadlines showing what the dates are currently, what the dates would need to be for the Commissioners to receive the packet 1 week prior to the meeting and the dates would need to be for the Commissioners to receive the packet 2 weeks prior to the meeting.

Ms. Crow explained City staff has surveyed 14 Johnson County jurisdictions to review how the timeline at which the Commission packets are distributed prior to the meeting. 2 jurisdictions provide the packet 1 week prior to the meeting, 4 distribute the packet five (5) days prior to the meeting, six (6), including Edgerton, publish 4 days prior to the meeting and 2 jurisdictions distribute three (3) days prior to the meeting.

Ms. Crow requested guidance from the Commission related to the timeline for packet publishing. If a change is needed to the Development Calendar to meet earlier packet distribution, several sections of the UDC would need to be amended. City staff would make the necessary revisions to the UDC and bring those revisions back for a public hearing on the matter at the May Planning Commission meeting.

Chairperson Daley requested the packet be published a week before the meeting. The rest of the Commission agreed. Ms. Crow explained the changes that would be done to the development calendar and the associated Articles in the UDC.

9. FUTURE MEETING REMINDERS

Chairperson Daley stated the next regular session of the Commission is scheduled for May 10, 2022 at 7:00 PM. Mr. Little stated he will not be in town for the July meetings.

Ms. Crow stated The City Council will consider the contract with the company City staff has selected to help in updating the City's Comprehensive Plan on Thursday, April 14, 2022. If the contract is approved, the first step will be a joint meeting of the City Council and Council on May 26, 2022 at 6:00 PM before the regularly scheduled City Council meeting.

10. **ADJOURN** Commissioner Crooks moved to adjourn the meeting. Commissioner Lebakken seconded the motion. The meeting was adjourned at 7:58 PM.