

**PLANNING COMMISSION MEETING**  
**April 11, 2023**

A regular session of the Edgerton Planning Commission (the Commission) was held in the Edgerton City Hall, 404 E. Nelson Street, Edgerton, Kansas on April 11, 2023. The meeting convened when Vice Chair Jeremy Little called the meeting to order at 7:00 PM.

**1. ROLL CALL**

Jeremy Little	present
Charlie Crooks	present
Adam Draskovich	present
John Daley	absent
Jordyn Mueller	absent

With a quorum present, the meeting commenced.

Staff in attendance: Chris Clinton, Planning and Zoning Coordinator/Deputy City Clerk  
Zachary Moore, Development Services Director

**2. WELCOME** Vice Chair Little 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 14, 2023 Planning Commission Meeting.
5. Approve Final Plat application FP2023-02 for Inland Port IX located at 30700 and 30500 W 183<sup>rd</sup> Street, with 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 Access and Utility Easements that are down the center of the proposed lot and recorded on Book 201808, Page 005903 will need to be removed and properly vacated.
  3. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code (UDC).
  4. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton UDC.
  5. All City Engineer comments related to the Stormwater Management Plan must be addressed prior to issuance of a building permit.
  6. All Final Plat requirements of the City listed on page 3 shall be met or addressed prior to recording of the Plat.
  7. If the Final Plat is not recorded with the Johnson County Register of Deeds within one year after acceptance by the Governing Body, the Final Plat will expire. Planning Commission re-approval and Governing Body re-acceptance is required for expired Final Plats.

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

## **REGULAR AGENDA**

### **6. DECLARATION**

Vice Chair Little 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**

#### **7. TU2023-01: TEMPORARY CONSTRUCTION USE FOR A ROCK CRUSHING OPERATION FOR TSL EDGERTON LOCATED 31115 W. 191<sup>ST</sup> STREET**

Mr. Zachary Moore, Development Services Director, addressed the Commission. He stated that the applicant, TSL Logistics, is requesting approval of a temporary construction use to allow rock crushing at the property at 31115 W. 191<sup>st</sup> Street. Article 9, Section 9.6.E of the City's Unified Development Code (UDC) authorizes the Commission to review and approve the use of property during construction to permit temporary uses such as portable asphalt or concrete plants, machinery yards, temporary living quarters, or similar uses. The Commission has previously reviewed and approved the use of properties for construction-related activities associated with Logistics Park Kansas City (LPKC), subject to stipulations and recommendation of City staff.

Mr. Moore explained that the subject property is located at the southwest corner of 191<sup>st</sup> Street and Waverly Road, and includes the property currently occupied by TSL Logistics and their future phases. The property was rezoned to the L-P District in 2014 and 2018. The Commission subsequently approved the Final Site Plan for TSL Logistics to expand to the south on their property in 2019, and that approval has since received extension through summer of 2023. The applicant has submitted their permit, and the approval of this temporary use for rock crushing would allow them to use the rock crushed onsite to be the aggregate required for construction, instead of hauling in aggregate from elsewhere. The rock crushing operation is recommended to be limited from 7:00 AM to 6:00 PM daily, and the operation must be completed by October 1, 2023, as stipulated as part of City staff's recommendation. Mr. Moore said City staff does recommend approval of TU2023-01, to allow for a temporary rock crushing operation for TSL Logistics at 31115 W. 191<sup>st</sup> Street, subject to the stipulations listed in the Staff Report.

Mr. Patrick Cassity from RIC Engineering, applicant representative, approached the Commission. He stated this temporary construction use would help the City as it would reduce

trucks and traffic along the roadways as there would not be the need rock delivered to the site. He added water trucks will be used to aid in dust mitigation and the proposed rock crushing operation would be 7:00 AM to 6:00 PM Monday through Saturday.

Mr. Moore explained the stipulations City staff recommends. The rock crushing operations must be completed by October 1, 2023. A new temporary construction use permit would be needed if more time is needed for the rock crushing. All offsite impact from the operation must be minimized as much as possible. This will include tracking any dirt and debris onto City roadways. The applicant or their subcontractors will address any issues that affect offsite properties or public rights-of-way in a timely manner. The hours of operation will be limited to those stated earlier.

Commissioner Draskovich asked if a crusher has been used onsite before. Mr. Moore answered that this would be the first time a rock crushing operation is done on this site. Commissioner Draskovich inquired to the decibel reading of the equipment. He explained that noise can carry especially between the buildings. He is concerned about the start time on Saturdays being too early. Mr. Moore replied that information was not provided by the applicant. Mr. Cassity replied he does not have that information at this time. Mr. Moore stated City staff will research the proposed equipment and provide that information.

Commissioner Crooks moved to approve application TU2023-01, temporary construction use for a rock crushing operation for TSL Edgerton located at 31115 W. 191<sup>st</sup> Street with the following stipulations:

1. The rock crushing operations must be completed prior to October 1, 2023. If the rock crushing operations needs to be extended, another Temporary Construction Use permit must be obtained through approval of the Commission.
2. Offsite impacts from onsite construction-related activities shall be minimized to the extent possible. This shall include compliance with all City regulations and policies related to the tracking of debris onto public streets.
3. Applicant and any subcontractors agree to address any issues that affect offsite properties or public rights-of-way or easements in a reasonable time period.
4. Hours of operation shall be limited to from 7:00 AM to 6:00 PM.

Commissioner Draskovich seconded the motion. TU2023-01 was approved as stipulated, 3-0.

8. **ZA2023-02: REZONING APPLICATION TO REZONE 37.39 ACRES FROM CTY RUR (COUNTY RURAL) TO L-P (LOGISTICS PARK) AND C-2 (HEAVY SERVICE COMMERCIAL) FOR WHIMSY EDGERTON, LLC, LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF W. 199<sup>TH</sup> STREET AND HOMESTEAD LANE**

Mr. Moore stated this application is a rezoning request from County Rural, which is the zoning designation of the subject parcels since they were annexed into the City of Edgerton, to City of Edgerton L-P, Logistics Park, and C-2, Heavy Service Commercial. He explained there are related preliminary plat and conditional use permit applications regarding the subject property to also be presented during this meeting.

Mr. Dan Finn with Phelps Engineering, property owner's representative, addressed the

Commission. He stated the site is on the northwest corner of Homestead Lane and 199<sup>th</sup> Street. The proposal is to bisect the parcel into the two requested zoning and use the creek as a landmark for the zoning boundary. He explained they are proposing to have west of creek zoned L-P and east of the creek zoned C-2. Currently, there is no development on the adjacent parcels to the north or west of the subject parcel. The parcels to the north and west are zoned L-P, however. The southwest corner of Homestead Lane and 199<sup>th</sup> Street is C-2. The proposed zonings are consistent with the current zonings in the area. Mr. Finn showed the floodway and 100-year floodplain on a map. He said west of the floodway and floodplain is proposed to be L-P. The floodway and floodplain is proposed to be in tracts and east of the tracts is where the proposed C-2 zoning will take place. He explained they are proposing lots 2 through 5 to be zoned C-2.

Mr. Finn stated that Whimsy Edgerton, LLC is the property owner. The request to rezone their property west of the creek to L-P is to allow for the development of a new Whimsy Trucking facility. He explained that Whimsy Trucking is a domestic freight company handling container traffic through the Chicago and Kansas City rails to and from points in the Midwest. He stated a site plan will be applied for at a later date. Mr. Finn said Whimsy Trucking does have operations in Kansas City and they are looking to expand into Edgerton. He explained the property to the east is proposed to be rezoned to C-2 is for future development of new commercial pad sites. The pad sites will be driven by market demand and may be retained by Whimsy Edgerton, LLC or sold in the future.

Vice Chair Little opened the public hearing. He stated that each speaker will be limited to three (3) minutes.

Mr. Cliff Cole, 19911 Pepper Tree Lane, addressed the Commission. He asked if there were going to be 3 public hearings during the meeting. Mr. Moore answered that each application for Whimsy Trucking, LLC will have a public hearing. Mr. Cole said he will speak just to the rezoning application. He read the Declaration item from the agenda. He asked the Commission if they have been coached as to what to ask, say or how to vote. Each Commissioner shook their heads no. Mr. Cole stated it is a good item to have on the agenda as it helps with transparency. He said the proposed area to be zoned L-P currently has a residence on it. He said that what goes on close to 199<sup>th</sup> Street affects the residences nearby. He stated the applicant is proposing an entrance near the Pepper Tree Lane intersection. Mr. Cole said that 199<sup>th</sup> Street has a hill and when drivers turn off Pepper Tree Lane, other drivers and truck drivers end up right behind them. He stated when they leave their neighborhood, they have to gun their vehicles onto 199<sup>th</sup> Street. Mr. Cole claimed the land to the west of the subject parcel has not been developed because of the impact it will have on the traffic. He stated that trucks are not as quick as passenger vehicles. He recounted a conversation he had with a neighbor who claimed that a death will happen there. Mr. Cole requested a traffic study be completed because an entrance on 199<sup>th</sup> Street is too dangerous. He said the entrance can be off of Homestead Lane since Kansas Department of Transportation (KDOT) allowed access from Homestead Lane. He said the biggest concern is the safety of the roads.

Ms. Jane Scaro, 19913 Pepper Tree Lane, spoke before the Commission. She said she wants to address the general development. She said the 3 applications are just the start of the development in this area. She is concerned about the air quality of the area. She requested the Commission restrict engine idling. She explained that Kansas City, Missouri has an

ordinance that does not allow five (5) minutes in a one (1) hour timeframe. She said it is costly to the driver, the entire fleet, and the environment. She said there is idling reduction technology that exists for drivers to stay in their cab comfortably without idling their trucks. Ms. Scaro stated she is also concerned about stormwater. She requested that water retention be designed to reduce the runoff that is currently there. She said a four (4) inch rainfall on fifty (50) acres is over 5.4 million gallons. Flooding happens in this area and the development will increase the possibility of flooding. She claimed the access point on 199<sup>th</sup> Street will not be able to handle the traffic. She has seen backups on Homestead Lane at 191<sup>st</sup> Street at another cargo container storage facility. Ms. Scaro said she believes alternative access points need to be provided either off of Homestead Lane or Essex Street needs to be extended to the south. She also requested that the Commission only allow down lighting on the development.

Mr. Mark Sanders, 19907 Pepper Tree Lane, approached the Commission. He stated he has a grandchild old enough to drive and he is concerned of his grandchild turning right on 199<sup>th</sup> Street. He said he had his grandchild drive 199<sup>th</sup> Street to see how dangerous the intersection of Pepper Tree Lane and 199<sup>th</sup> Street is. He stated any traffic impact study done will not take into account who is driving, whether it was a truck driver or one of the Commissioner's family members. The traffic study will not be impactful enough to stress the dangers of 199<sup>th</sup> Street. He said the trips shown in the traffic study are family members of the residents in the area. He said his concerns are not about money, but kids' safety. He said a traffic study is not enough to warrant putting an access point along 199<sup>th</sup> Street.

Mr. James Oltman, President of ElevateEdgerton!, addressed the Commission. He stated this project has been in the works for quite some time. He stated the residences have extremely valid concerns and he agrees with those concerns. He reminded the Commission that there is a step during the development process to address the stormwater, traffic, and other items of the sort that will be addressed during the Site Plan application.

Mr. Cole interjects that they know and understands the steps. He said when the parcel on the southwest corner of the intersection of Homestead Lane and 199<sup>th</sup> Street was rezoned to C-2 went through the same process. During that process, the developer at the time and the Coles agreed to certain terms that were not written down correctly by the clerk and they have yet to receive the items agreed upon. He said the process starts here but it does not end here. He claimed he and his family have suffered death by a thousand cuts. The error by the City is hurting them and they have been dealing with this for 15 years. He claimed the process is not in the neighbors' favor.

Commissioner Crooks moved to close the public hearing. Commissioner Draskovich seconded the motion. The public hearing was closed, 3-0.

Mr. Moore explained that the traffic study will be completed for a Final Site Plan application. At this time, there has not been an application for the Final Site Plan so it will be another meeting when the traffic study will be presented. The Final Site Plan application will have a public hearing as well. He stated the zoning of the parcels addresses the use of the land. This would include assigning the development standards and does not designate a particular use. Mr. Moore said the stormwater study and ways to maintain air quality will be presented during the Final Site Plan application as well. Mr. Cole interjected and inquired about the final item

on the agenda. Mr. Moore explained the final item is for a Conditional Use Permit (CUP) which identifies additional requirements for one (1) particular use within a district and the Unified Development Code (UDC) does not require a Final Site Plan to be submitted at the same time when the CUP is applied for. The CUP does address some set of parameters, and the Site Plan will need to meet those standards when applied for. The same applies with a photometric plan showing the lighting of the property. He stated the traffic study will also consider any road improvements that might be needed.

Mr. Moore stated that the subject parcels are currently zoned County RUR. This zoning designation is also across Homestead Lane. The first request is to rezone west of the creek to City L-P. The City L-P zoning designation is also found to the north and west of the subject parcels. The second part of this request is to rezone east of the creek to City C-2. The same zoning designation is found across 199<sup>th</sup> Street to the south and to the southeast. The other zoning designation in the area is County RN-1, Residential Neighborhood.

Mr. Moore explained that all rezoning requests are evaluated against the Golden Criteria as set by the Kansas Supreme Court in 1978. City staff has completed their evaluation against the Golden Criteria. He stated as Logistics Park Kansas City (LPKC) continues to grow, the need for these types of operations continues to grow as well in the L-P zoning. Another need for LPKC as it grows are those outlined in the C-2 zoning designation. The properties to the north and west of the subject parcels are vacant and there is partial development to the east of a commercial nursery. To the south, the land is zoned County RN-1 and is low density residential. Also to the south is the C-2 zoned property where a commercial development known as Edgerton Crossing is currently having infrastructure placed. The character of the area also speaks to the compatibility of the proposed zonings of the subject parcels. There are existing L-P and C-2 zonings adjacent to the subject parcels. The uses that can be developed will be beneficial to LPKC and the nearby residences.

Mr. Moore explained the property is restricted by the current zoning as the City cannot enforce County regulations which require the parcels to be rezoned prior to development. The County RUR zoning designation has been in place since the 1990s when the County did a County-wide zoning update. The single-family dwelling on the west has been there since 2000 with the east portion having been vacant since 2014. He states that the development will affect the nearby property due to the increase of traffic and a traffic study will be done prior to the submittal of a Final Site Plan. The requirements outlined in the traffic study will need to be met.

Mr. Moore said the infrastructure for all of the utilities are onsite or on adjacent parcels to be used for development on the subject parcels. He stressed that federal, state, and local regulations will need to be adhered to regarding any type of pollution. Mr. Moore stated there would be no gain from denial but would increase hardship to the developer would still need to rezone for development. He said the subject property is designated as Business Park/Industrial on the future land use map of the City's Comprehensive Plan which the proposed zonings align with. It is also consistent with several goal of the Comprehensive Plan, including, but not limited to: Promote a balanced and sustainable community by providing a mix of different types of development and Create employment opportunities and promote a diversified economic base.

Commissioner Draskovich moved to recommend approval of application ZA2023-02, rezoning 37.39 acres from County Rural (RUR) District to L-P (Logistics Park) District and C-2 (Heavy Service Commercial) District at the northwest corner of the intersection of W. 199<sup>th</sup> Street and Homestead Lane. The motion was seconded by Commissioner Crooks. Application ZA2023-02 was recommended for approval, 3-0.

9. **PP2023-02: PRELIMINARY PLAT APPLICATION FOR WHIMSY EDGERTON, LLC LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF W. 199<sup>TH</sup> STREET AND HOMESTEAD LANE**

Mr. Moore explained the request is for a Preliminary Plat that shows one (1) lot to the west of the creek and four (4) lots to the east with a tract bisecting the two (2) proposed zoning districts. He stated the Final Plat will record legal lots, dedication of easements, and rights-of-way. The Preliminary Plat is a possible outline of the lots and easements and there are no buildings on the Preliminary Plat, just a possible division of land.

Mr. Finn addressed the Commission. He stated it is the same subject parcels as the rezoning. He said the Preliminary Plat shows possible lots for development. The Tract is made up of the creek and the floodplain. He said the C-2 lots, Lots 2-5, which are proposed to be one and a half acres (1.5) to two (2) acres in size. The L-P lot, Lot 1, will be owned, developed, and operated by Whimsy Trucking. The C-2 lots will be developed based on the market demands. Whimsy Trucking might develop them or they could sell the lots to others to develop. Mr. Finn stated there would be a new sewer main extension with a lift station to serve Lot 1. The sewer extension will also serve the neighboring lot to the west of the Whimsy Trucking property. He explained new right-of-way will be dedicated along 199<sup>th</sup> Street that will allow widening the road and turn lanes if the traffic study shows they are warranted. Mr. Finn said there is Federal Emergency Management Agency (FEMA) 100-year Floodplain, which is mostly contained within Tract A. Lot 1 does not contain any of the FEMA floodway and Lots 2-5 encroach on the FEMA floodway which will require paperwork to be submitted depending on the limits of the disturbed land at the time of development.

Vice Chair Little opened the public hearing.

Mr. Lonny Vlieger, 19910 Pepper Tree Lane, spoke before the Commission. He said there are turning lanes from Homestead Lane that will need to be accounted for. He stated trucks bounce across the culvert and make noise and the culvert will need to be upgraded. Emergency services will need to be able to get by and 199<sup>th</sup> Street and the street needs to be kept clear of traffic.

Commissioner Crooks moved to close the public hearing. Commissioner Draskovich seconded the motion. The public hearing was closed, 3-0.

Mr. Finn stated a traffic study, to be done with a Final Site Plan application, will show what improvements will be needed for the roadway. It will also show how many trucks will be queued and Whimsy Trucking will ensure that queueing is done onsite and not on the roadway.

Vice Chair Little asked if the Commission will see the traffic study. Mr. Moore answered it will be available in the packet. He explained the traffic study and Final Site Plan will be available

for the public to view when they are applied for.

Commissioner Draskovich claimed everyone speeds on 199<sup>th</sup> Street and the issue comes down to how much money the developer wants to spend on access points. He inquired if the applicant looked at other properties for development and if it was possible to have access from Homestead Lane instead of 199<sup>th</sup> Street. Mr. Finn replied that the only other access point would be from Homestead Lane, but it could impact the development of the public infrastructure to the west side. He understands that traffic is a huge concern, and the traffic study will be done as part of the property owners' due diligence. He stated that any road improvements that are required by the traffic study will be done, and Whimsy Trucking does not want to be a hindrance to the community.

Commissioner Draskovich inquired if they knew how many trucks would be coming to the site as that culvert is narrow. He said he thinks the best option is to look elsewhere. The one access point is an issue with traffic. Mr. Finn replied he will discuss those items with the property owners.

Commissioner Crooks asked when the last traffic study that was done on 199<sup>th</sup> Street. Mr. Moore replied that the City does not typically do traffic studies, especially on roads which are controlled by the County. He stated that developers complete traffic studies to see the effect a potential development would have on the road network. Commissioner Crooks requested City staff look at the traffic study done by the developers to the south. Commissioner Draskovich requested City staff also inquire if the County has done one for 199<sup>th</sup> Street.

Mr. Moore reminded the Commission that the application before them is a Preliminary Plat, which is the potential division of land and dedication of easements. Commissioner Draskovich stated the Preliminary Plat shows possible right-of-way and that needs to be addressed now. Mr. Finn stated if more right-of-way is needed, then it will be dedicated on the Final Plat. Commissioner Draskovich stated the culvert needs to be included in the right-of-way.

Mr. Sanders interposed that the traffic study needs to show the traffic off of Homestead Lane as well. The traffic study needs to be seen as a risk assessment.

Mr. Vlieger interjected that Essex Street should be brought south to allow access.

Commissioner Draskovich stated that would need to be an option. He added they are trying to bring money into the City, but the City can't have spaghetti string roads everywhere. He claimed the City needs to control traffic growth.

Mr. Moore stated the proposal of this application is to establish future lot lines for lots of record and designation of the floodway in a tract. He explained there are minor updates that are needed for the Preliminary Plat to meet the City's standards. Those updates include that the subdivision name is misspelled on the Preliminary Plat, any existing easements need to be shown on the Preliminary Plat, additional easements might be needed, and City staff clarified that the Planning Commission Secretary's signature is not needed. Mr. Moore said City staff does recommend approval with the following stipulations:

1. All Preliminary Plat requirements of the City listed on page 3 shall be met or addressed prior to certification by the Zoning Administrator.



2. All infrastructure requirements of the City shall be met throughout the development.
3. All City Engineer comments related to the Stormwater Management Plan must be addressed throughout development.
4. The 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 one year, the preliminary plat shall be ruled null and void. The Planning Commission upon submittal and approval of a written request may grant a one-year extension on the approval of the preliminary plat.

Commissioner Draskovich inquired if the applicant has done soil testing to see if blasting will be needed as that will change the cost of grading the area. Mr. Finn replied soil boring had been done and there is shallow rock.

Commissioner Crooks stated the turn lanes should be reviewed. Mr. Moore asked how long it will take to have a traffic study ready for review. Mr. Finn answered it would be 2 to 3 said months at a minimum. Vice Chair Little asked how much it would be to regrade the hills in the area to make 199<sup>th</sup> Street safer.

Commissioner Draskovich stated there is a house seventy-five (75) feet from 199<sup>th</sup> Street and that will cause issues with any earthwork. He claimed there are a lot of options for access points, but they are all expensive. He said there should be collaborative work with Public Works, the City Engineer, and financial specialists to get 199<sup>th</sup> Street to be safe. Commissioner Crooks inquired as to who owns the property to the north of the subject parcels. Commissioner Draskovich stated it is owned by Edgerton Land Holding, LLC.

Mr. Moore stated this is no firm date at this time as to when the submittal of a Final Site Plan will be applied for. A new notice would need to be published prior to the meeting as a public hearing would be held. City staff will need at least ten (10) business days for their first review. City staff will be assessing and reassessing everything submitted.

Commissioner Draskovich moved to table Preliminary Application PP2023-02 to a date uncertain. The motion was seconded by Commissioner Crooks.

Mr. Moore requested clarification as to what information is being requested by the Commission. Commissioner Draskovich requested cost analysis of other possible access points being utilized, such as Essex Street being expanded to the south or access from Homestead Lane. Commissioner Crooks requested a traffic study be provided.

Preliminary Plat Application PP2023-02 was tabled to a date uncertain, 3-0.

10. **CU2023-01: CONDITIONAL USE PERMIT APPLICATION FOR A CARGO CONTAINER STORAGE, REPAIR OR MAINTENANCE FACILITY FOR WHIMSY EDGERTON, LLC LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF W. 199<sup>TH</sup> STREET AND HOMESTEAD LANE**

Mr. Finn requested Conditional Use Permit CU2023-01 be tabled to a date uncertain to provide the additional information requested by the Commission for Preliminary Plat Application PP2023-02.

**11. FUTURE MEETING REMINDERS**

Vice Chair Little stated the next Planning Commission meetings are scheduled for May 9, June 13, and July 11, 2023.

**12. ADJOURN**

Commissioner Crooks moved to adjourn the meeting. Commissioner Draskovich seconded the motion. The meeting was adjourned at 8:10 PM, 3-0.