

AUBRY TOWNSHIP ZONING BOARD
KCPL Service Center, 199th Street & Newton
Stilwell, Kansas

MINUTES
Wednesday, May 6, 2009
6:30 p.m.

CALL TO ORDER

A regular meeting of the Aubry Township Zoning Board of Johnson County, Kansas, was convened at 6:30 p.m. on Wednesday, May 6, 2009, and was called to order by Chris Iliff, Vice-Chairman, with the following members present and participating; to-wit: Rod Richardson, Patricia Fischer and Rick Noon. Also in attendance was Paul Greeley and Pamela Hayhow, Johnson County Planning Department.

AGENDA ITEMS

Additions, Deletions, or Revisions to the Agenda:

[none]

Motion to approve agenda passed unanimously.

Disclosure of Conflicts of Interest:

[none]

Disclosure of External Contacts/Discussions:

[none]

APPROVAL OF MINUTES

Motion by Mr. Richardson, seconded by Ms. Fischer, to approve the minutes of the February 4, 2009, meeting. Motion passed unanimously.

BOARD REPORTS

Board of County Commissioners

Pamela Hayhow: There were two items that came before this board in February, the Conditional Use Permit Renewal for the natural gas gathering facility by Riverdale Pipeline and a replat for Windmill Springs. Both of these items were heard by the BOCC in March and were approved.

Pat Fischer: Was the renewal for the Riverdale Pipeline approved for a 5 year term?

Pamela Hayhow: Yes, it was approved with a 5 year term.

Planning Commission

The Vice Chairman: A public information meeting regarding an update to the FEMA Floodplain maps and regulations was held on April 29th. There will be a public hearing in May. To explain very briefly what is going on there is, the FEMA floodplains that are published, our Johnson County Planning staff felt were insufficient to really account for the danger of a one hundred year flood, particularly in light of development. So, as a consequence, they enhanced the FEMA floodplain in widening the areas that they feel are most likely to be affected by the one hundred year flood. And then, they have drafted regulations with regard to what can be done in the areas outside of the FEMA and inside of the new Johnson County floodplain laws. Basically what they're intending to do is to discourage, but not prohibit, improvements in that area. However, if improvement is going to be made in that area, there will have to be a justification to show why that will not affect water flow or obstruct flow of water. I think it makes a whole lot of sense. So, if you're interested, all that stuff is on line, and there will be a public hearing on that in May.

Ms. Fischer: Will it affect anything that's already platted or planned? Do you know?

The Vice Chairman: Yes. I mean, in several occasions, there will be existing improvements and existing plats that will fall within the new or enhanced floodplains. I don't think there's any intention to undo prior actions. I think the idea is to limit or more wisely plan future plattings, rather than to reverse any prior actions.

Ms. Fischer: So it won't affect anything that's already been done.

The Vice Chairman: Yeah. And, you know, I've seen this on several occasions, where a house starts taking on water, and the County discovers that it is a result of actions that the County approved that's causing the water to back up and to go into basements, etc. And they've had to buy several houses. I think counties and cities are very loathe to do that, understandably, and the best way to avoid that is to make sure that houses are not built in those areas.

Ms. Fischer: I think it's a great idea. We've certainly had a lot of discussion about that in some of the subdivisions and plans that we've looked at over the years.

Mr. Greeley: I have one thing I'd like to update you on, but I can do this after your business item, and that's on the consolidation of the zoning boards.

The Vice Chairman: For the record, this is Chris Iliff, acting Chairman. Mr. Noon has now joined us, so we have four people here – Pat Fischer and Rod Richardson.

BUSINESS BEFORE THE BOARD

A. Application No. AU-PRN1-2907 – Planned Residential Neighborhood 1 District – 18515 Metcalf

Application No. AU-PDP/FDP-2908 – Preliminary and Final Development Plan (Plat) – 18515 Metcalf

Schlagel & Associates, P. A., applicant, and Park North Trust, LLC, landowner, are requesting rezoning from RLD, Residential Low Density District, to PRN1, Planned Residential Neighborhood 1 District, and for Preliminary and Final Development Plan (Plat) approval for the division of approximately 3.7 acres into 2 residential lots for a subdivision to be known as **Iron Oak, First Plat**, located at 18515 Metcalf, Section 32, Township 14, Range 25.

The Vice Chairman: *Explained process for the meeting.*

Ms. Hayhow: I'd like to enter the staff report dated April 29th into the record. This application has two parts. The first is the rezoning. It's a request to rezone 3.72 acres located at 18515 Metcalf, from the RLD District to the Planned Residential Neighborhood-1 District. This property was the remnant of the property to the east, which was rezoned to the RN-1 district and platted at the Foxhead Shores subdivision in 1987 and 1988. Staff reviewed this request for conformance with minimum infrastructure requirements, county zoning and subdivision regulations, the comprehensive plan, and Golden Criteria. Subject to installation of dry low-pressure sewers, as discussed on pages 4 and 5 of the staff report, the property was found to meet minimum infrastructure requirements. The proposed residential use is consistent and compatible with the zoning uses and character of nearby properties. These lots would appear as part of the adjacent residential subdivision in terms of size and driveway orientation. This property is in the growth policy area, planned residential of the Blue Valley area plan and the rural comprehensive plan. The growth policy area provides for infill development of low-density uses that complement existing residential development and promote capability of existing and future uses. The proposed PRN-1 District is in keeping with the Plan.

The second part of this application involves the preliminary development plan and final development plan for the property. It's for two lots of the Iron Oak subdivision. This graphic we have up here shows the proposed configuration of the two lots. There's an existing house situated on the eastern portion of the property, which is currently oriented towards Metcalf with an existing driveway. Lot 1 of the proposed development would consist of a 1.37 acre parcel and includes the existing house with a new driveway out onto 185th Terrace. The existing driveway onto Metcalf would be removed as part of this application. Lot 2 on the western portion of the property would consist of an undeveloped 1 1/2 acre lot. Between the two lots, there's a tract – Tract A – which is proposed for future street access to the property to the north. Metcalf is designated as a Type II arterial roadway, and direct access is limited. The existing driveway on Metcalf, as I stated earlier, would be removed. That is addressed in the recommendation stipulations of the staff report.

With respect to the review criteria set forth in the zoning and subdivision regulations, the proposed development plans meet all of the 12 criteria addressed on pages 8 and 9 of your staff report. With removal of the driveway onto Metcalf, the proposed layout would meet the criteria of the lots "shall not have direct access onto a CARNP designated arterial roadway." A sewer district has been formed, which includes properties immediately north and west of this property. There's a diagram on page 4 of your staff report that shows the boundaries of the existing district. Per the wastewater division, sewers are expected to be within 500 feet of this property mid-2010.

There's no development proposed at this time for the undeveloped lot, but if this property should develop prior to the availability of sewers, a rule exception variance from the environmental sanitary code would be required prior to the issuance of a building permit. This would be in addition to the recommendation that low-pressure dry sewers be installed on both of the proposed lots.

Staff is recommending approval of the PRN-1 zoning and the associated preliminary and final development plans, subject to stipulations 1 through 10 in the staff report. There are six reasons provided on page 11, with the recommended reasons. However, staff does need to recommend an additional stipulation in regard to the location of the existing septic system for the house on Lot 1. This would be stipulation 11, and should read: "The septic system for the existing house shall be located prior to the recording of the final development plan." This is needed to ensure that it is located entirely on the proposed lot and meets setback requirements.

That concludes staff's presentation of the staff report. We had a zoning board member – Pat – ask some questions with regard to the location of the proposed street. It's not proposed as a street at this time. It's reserved as an access easement for future construction of a street. All that is planned for right now on the property is removal of the driveway out onto Metcalf; the house remains as is; the new driveway constructed directly into the garage. There are limits of no access shown along Metcalf and extending for

about 50 feet onto 185th Terrace. There will be no driveway permitted in that location. The proposed street is about 360 feet from the center line of Metcalf, which meets minimum spacing requirements for public streets. It's anticipated that this will be developed as a local street, similar to 185th Terrace, and carry about the same amount of traffic.

Pat, I would direct your attention to the memo from Public Works, which tries to address your concerns. Staff would add that the design of the street coming into 185th Terrace, I think you can see this best on your aerial, on page 4. There are two existing driveways on the south side of 185th Terrace. The proposed future street would be in alignment with those driveways. This isn't considered to be a problem, it's actually a design benefit. When we lay out subdivisions in school, you're taught to line up the lot lines with the streets so that cars that would be stacking on the street wouldn't shine their lights directly into a living space within a home. You have a lot line with required setbacks on either side which leaves an open space between buildings which reduces any negative effects on the houses that are developed in this area. In this location, the two driveways go in and are side-loaded into the garage, so there would be no lights shining into great rooms, bedrooms, or anything like that.

That concludes staff's presentation. I'd be happy to answer any questions you might have.

The Vice Chairman: Are there any questions of Ms. Hayhow?

Mr. Noon: Both lots would have access to 185th Terrace, but would they have, in addition to that, access to the new street? I know that the one lot with the existing home is going to come out to 185th Terrace at this point. The new lot over by Metcalf and 185th in the corner, where will that driveway access be? Is there a choice, or do you have a plan for it?

Ms. Hayhow: The owner is here tonight and might be better able to address that. There's no prohibition from the plat standpoint as to coming out onto 185th Terrace, or to the new street whenever it's constructed in the future.

Mr. Noon: I didn't think it was that close to the corner, but I thought I'd ask.

The Vice Chairman: Any further questions? If not, the applicant is here. Please feel free to address us.

Dan Foster, Schlagel & Associates, appeared before the zoning board and made the following comments:

Mr. Foster: I'm here on behalf of Park North Trust, LLC. Michael Menghini with Park Hill Trust is here also. Basically, I think staff did a good job of explaining the plan to you. The essence of it is, we have a fairly substantial lot here that was held out at the time the rest of this subdivision along 185th Terrace was constructed. All we're trying to do is go ahead and divide this into two lots, with the intent to hopefully, we've had a couple people requesting to possibly move into this home. So, that's the whole purpose of why we're here tonight, to go ahead and set it so that we can make those two lots available. As part of the whole access management plan along Metcalf, that's the reason why this street is located at this location, because of the spacing between 185th and 183rd Streets. So, that's it in a nut shell. I'd be happy to answer any questions. The question about the lot – At this time, we don't know. I mean, when somebody comes in with the house, I would imagine that they might prefer to face 185th Terrace potentially. I don't know. They might want to face the future Tract A or that future street.

Mr. Noon: What triggers the development of the street? If you sell the house off in the next couple of months, you're left with a lot, and the street. What triggers the street being built, and who pays for that?

Mr. Foster: Tract A is going to be owned by the developer, who also owns this property here (points to the property to the north). So, essentially, I think that any development that would occur that direction would end up triggering that street.

Mr. Noon: Okay, so the lot could be sold and could be developed without the street going in.

Mr. Foster: That's true.

The Vice Chairman: Any other questions? If not, we'll open it to the public.

Gene Cayot, 6969 West 185th Terrace, Stilwell, appeared before the zoning board and made the following comments:

Mr. Cayot: We're the second house east of 69 Highway. My wife, Jeanne, is here with me tonight. I think this is great to see some development in this area, and I'm very pleased to see that. One of the questions I have at the moment is, just for curiosity's sake, you being the folks that might have some knowledge: What plans have been made for the development of Metcalf, to provide a better road? And will some of this property have to be forfeited for that reason? How will that affect the community?

The Vice Chairman: Why don't we have a discussion about that after this hearing? This is going to be a brief meeting, so if you can stick around, we can chat with you about that. I'm sure Mr. Greeley and Ms. Hayhow would be glad to give you some opinions, too.

Ms. Fischer: Excuse me, Mr. Chairman. Why don't we see if staff wants to address that? I imagine some of this building line setback or some of the road setback is for future expansion of Metcalf – Is that true?

Ms. Hayhow: That is correct. I believe it's shown on both the preliminary and the final development plan, the ultimate right-of-way for improvement of Metcalf is being dedicated with this plat.

The Vice Chairman: It's part of the price that any developer along a major road has to pay, and they're essentially asked to forfeit a certain amount of their property along the edge of major roadways. I don't know whether that's right or wrong, but it's what happens.

Mr. Cayot: That would be shared by the individual or company, or whoever it might be, that owned the property on the opposite side of the road, correct? It would be split more or less to provide enough space in order for that to happen.

The Vice Chairman: Yes, but if the other side of the road isn't being developed, then if the County wants that property, then they have to pay for it. This is a way for the County to get a slice of land without actually having to pay for it. Any other comments from members of the public?

Don Carr, 6665 West 185th Terrace, Stilwell, appeared before the zoning board and made the following comments:

Mr. Carr: The way I understand it, the house that's there will be on one lot, and there will be another lot that will be used for some other purpose. Are there restrictions on what they can build on that other lot?

The Vice Chairman: Yes. It's zoned as residential, so the only thing that can be built on it is a residence.

Mr. Carr: A single-family residence?

The Vice Chairman: Yes, that's correct.

Mr. Carr: Okay. They can't build a duplex, or anything...?

The Vice Chairman: No, that requires a different kind of zoning.

Mr. Carr: Are there any restrictions on the size of house that can be built there?

The Vice Chairman: No.

Mr. Carr: So they could build a little 1,000 square foot house there if they want to.

The Vice Chairman: Yes.

Mr. Carr: I'm not saying that they will, but that could be done.

The Vice Chairman: That could be done, but given how much money they'll have to spend for that lot, I suspect they'll build a little bigger house.

Mr. Carr: I would hope so. That's all that I have.

The Vice Chairman: Anyone else? If not, we will close the hearing to the public, and we will open it for discussion here among ourselves, or a motion.

Mr. Richardson: Mr. Chairman, based upon what I've heard, I don't see any reason to oppose this. The folks here I think have had their questions answered. That being a case, just to get discussion started, I would move for approval of Application No. AU-PRN1-2907, the Planned Residential Neighborhood 1 District. I guess we need to do these separately.

The Vice Chairman: I think we do, and I think the stipulations would probably apply to the preliminary and final development plan, rather than to the zoning itself.

Mr. Richardson: Right. That being the case, that's my motion. I would support it based upon the staff report and the discussion of record at this point, comments of the applicant, and the adjoining residents.

Ms. Fischer: I would second that.

The Vice Chairman: It's been moved and seconded. By way of discussion, I would simply say that this seems to be a very ordinary and desirable development that is consistent with the surrounding area, and will enhance the value of not only this property, but I suspect the nearby properties. For those reasons, and the reasons stated in the staff report, I intend to support the motion.

Ms. Fischer: I was glad to see the provision for the street going in on that additional tract.

The Vice Chairman: Usually that's something that has to be extracted, so that's good. I think the developer in this case is thinking ahead. Of course, it helps that the neighboring properties are owned by the same person. Any further discussion?

Motion passes unanimously.

The Vice Chairman: We now can deal with both the preliminary and final development plan applications in one motion.

Mr. Richardson: Mr. Chairman, I will move that we recommend approval of Application No. AU-PDP/FDP 2908 – Preliminary and Final Development Plans for 18515 Metcalf, subject to the recommended stipulations that appear in the staff report, numbered 1 through 10. And the 11th one, which was that – and correct me if I’m wrong – the 11th one is that the actual location of the septic system will have to be located prior to the development plan recording, in order to assure that the components of the septic system are, in fact, on the lot. Is that correct?

Ms. Hayhow: Yes.

The Vice Chairman: Okay. Subject to those 11 stipulations, that’s my motion. Supporting it would be the staff comments and the comments on the record so far this evening.

Ms. Fischer: Can we add that it’s Lot 1 that we’re talking about?

The Vice Chairman: Yes, that is Lot 1, with reference to stipulation 11.

Ms. Fischer: Second.

Motion approved unanimously.

Ms. Hayhow: This will go before the Board of County Commissioners on June 11, 2009, at 9:30 in the morning. It’s in the Johnson County Administration Building.

The Vice Chairman: I will tell you, it is not necessary for you to appear there, but it is a public hearing, and you can come and make your comments again. However, what you have said tonight will appear in the minutes and will be of record for the Board of County Commissioners. They will have heard what you have to say.

OTHER BUSINESS

Zoning Board Consolidation

Mr. Greeley: Last week, the Board of County Commissioners held a public hearing to consider the consolidation of the Aubry Township Zoning Board with the Oxford Township Zoning Board. There was no one that appeared at the hearing. At the conclusion of their public hearing, the Board did approve the consolidation. It is not yet effective. The effective date is June 30th. We expect that the earliest meeting of that consolidated board would be July 1st, which is the regular meeting date of this board. We’re planning that, given the lead that you gave us and the Oxford zoning board members gave us at their meeting this winter, of how we might coordinate that first meeting. We do still need to make the appointments to the new board, so that may require some paperwork on your part if you are interested in serving on the new board. Because this is a new appointment and not a re-appointment, the statute is slightly different on how that’s done, but we’ll guide you through that. So, we needed that extra time to get the consolidation approved, but then realizing it would take us a couple weeks or longer to get the appointments made. Those won’t be effective until June 30 either, so your role as zoning board members can continue, because we do have a meeting planned in June for this board. That would be the last meeting before you would go into the consolidated board situation.

Ms. Fischer: I think we need a little ceremony or something.

Mr. Greeley: We can work on that.

The Vice Chairman: Mr. Greeley, has it been determined where the meetings are going to be held?

Mr. Greeley: Well, again, taking the lead that we heard at the meeting this winter with the joint group, it is in this building, at the same time, same first Wednesday of the month. Now, of course, on that first meeting, we need to make that more official. So, we'll have another discussion at that meeting about the meeting time, location, election of officers, and any other new board business that we'll need to do.

The Vice Chairman: I appreciate that. Being a creature of habit, I'd hate to have this location moved, because I would continue to come here. All right. Thank you.


BUSINESS FROM THE FLOOR [none]

NEW BUSINESS [none]

OLD BUSINESS [none]

ADJOURNMENT

Thereupon, with no further business to come before the Aubry Township Zoning Board, the Vice-Chairman at 6:55 p.m. declared the meeting to be *Adjourned*.



Vice-Chairman

ATTEST:



Secretary to the Board