



STAFF REPORT

April 29, 2009

To: Aubry Township Zoning Board
Fr: Pamela Hayhow, AICP, Planner
Re: Application Nos. AU-RN1-2907 & AU-PP/FP-2908

APPLICATION INFORMATION

Applicant: Schlagel & Associates
Owners: Park North Trust; Michael Menghini
Requested Actions:

- 1) Request to rezone 3.72 acres from RLD Residential Low Density District to PRN1, Planned Residential Neighborhood 1 District.
- 2) Preliminary Development Plan (Plat) to create two (2) residential lots.
- 3) Final Development Plan (Plat) for two (2) residential lots.

Site Address: 18515 Metcalf
Legal Description: Part of the NE Quarter of Section 32, Township 14, Range 25
Existing Land Use and Zoning: Large-lot residential/RLD Residential Low Density District
Existing Improvements: One home on private septic system with driveway from Metcalf.
Site Size: 3.72 acres

PROJECT INFORMATION

The rezoning application proposes to rezone 3.72 acres from RLD, Residential Low Density District, to PRN1, Planned Residential Neighborhood 1 District. The preliminary plat and final plat applications propose dividing the parcel into two, 1.37 & 1.54 acre lots, and one, .28 acre tract. There is an existing house and improvements on proposed Lot 1 which would remain. The driveway to the existing house will be relocated to take access from 185th Terrace instead of Metcalf. Metcalf is designated as a Type 2 CARNP arterial which prohibits direct access from individual lots. Any new development on Lot 2 would also be required to take access from 185th Terrace or other internal street. The intent of the .28 acre tract, shown between the proposed lots, is for future street construction in conjunction with development of adjoining property to the north.

Zoning History: This parcel was the remnant of a larger property which was rezoned from "A", Agricultural District to "RR", Rural Residential District in September 1987, Res. No 113-87, and platted as the Foxhead Shores subdivision in 1988. This parcel was rezoned from "A", Agricultural

District to “RLD”, Residential Low Density District, in October 1987, Res. No 121-87, to bring the property into compliance with the Zoning and Subdivision Regulations. Properties zoned “RR”, Rural Residential were zoned RN1 as part of a county wide zoning in 1994.

Figure 1: Aerial photo of vicinity - approximately 0.75 square miles



Figure 2: Current improvements on subject parcel



Minimum Infrastructure Requirements:

The Johnson County *Zoning and Subdivision Regulations* (the *Regulations*), Article 11, Section 6, requires that all Minimum Infrastructure Requirements, as specified in Article 31 of the *Regulations*, be met prior to rezoning or development of any site in the PRN1 Zoning District. The infrastructure categories pertaining to the PRN1 District are reviewed as follows:

A. Fire Station Service Area:

Required: Tracts zoned PRN1 District must be located within five (5) miles of an existing fire station. Fire protection is provided by the Johnson County Fire District #2, with Fire Station No. 1 located at 19495 Metcalf, approximately 1.5 miles, by road, to the south. ***This proposal meets this requirement.***

Police protection is provided by the Johnson County Sheriff's Office.

B. Roads:

The property currently has direct access onto Metcalf, designated as a Type 2 arterial roadway. As part of the requested rezoning and preliminary and final plats, access to the proposed lots would be from 185th Terrace, an existing local roadway. Limits of No Access are shown on the plat along Metcalf frontage and along that portion of 185th Terrace within 50 feet of the intersection.

Required: Category 3. External Roads Serving 2-acre and 1-acre lot Residential Subdivisions:

1. *A minimum of one road, constructed with at least an asphaltic concrete surface, shall provide continuous access from the subdivision to the nearest highway, or to the nearest arterial road. 185th Terrace, an approximately 21-foot wide, asphalt paved road provides access to Metcalf designated by CARNP as a Type 2 Arterial Roadway. ***This proposal meets this requirement.****

2. *All abutting roads shall have at least an asphaltic concrete surface. 185th Terrace and Metcalf are asphalt paved roads. ***This proposal meets this requirement.****

3. *All abutting roads contiguous to the subdivision onto which local roads in the subdivision connect, shall be constructed to at least 24 ft. wide with 4 ft. wide shoulders. Metcalf is a Type B Street (24 feet wide with 4 feet shoulders. ***This proposal meets this requirement.****

4. *Lots shall not have access directly onto a Highway, a CARNP designated Parkway, or a CARNP designated Arterial Street. As part of this proposal, the existing driveway access to Metcalf would be removed and both of these lots would take access from 185th Terrace, a local street. ***This proposal meets this requirement.****

Required: Category 6. All interior, On-Site Roads:

*All roads in any subdivision shall be designed and constructed in compliance with county road standards, which in this case requires Type A paved, curb and gutter streets. There are no new streets proposed for construction at this time. Any new street within Tract A shall be constructed to whatever county road standards are applicable at the time. ***This proposal meets this requirement.****

C. Storm Drainage:

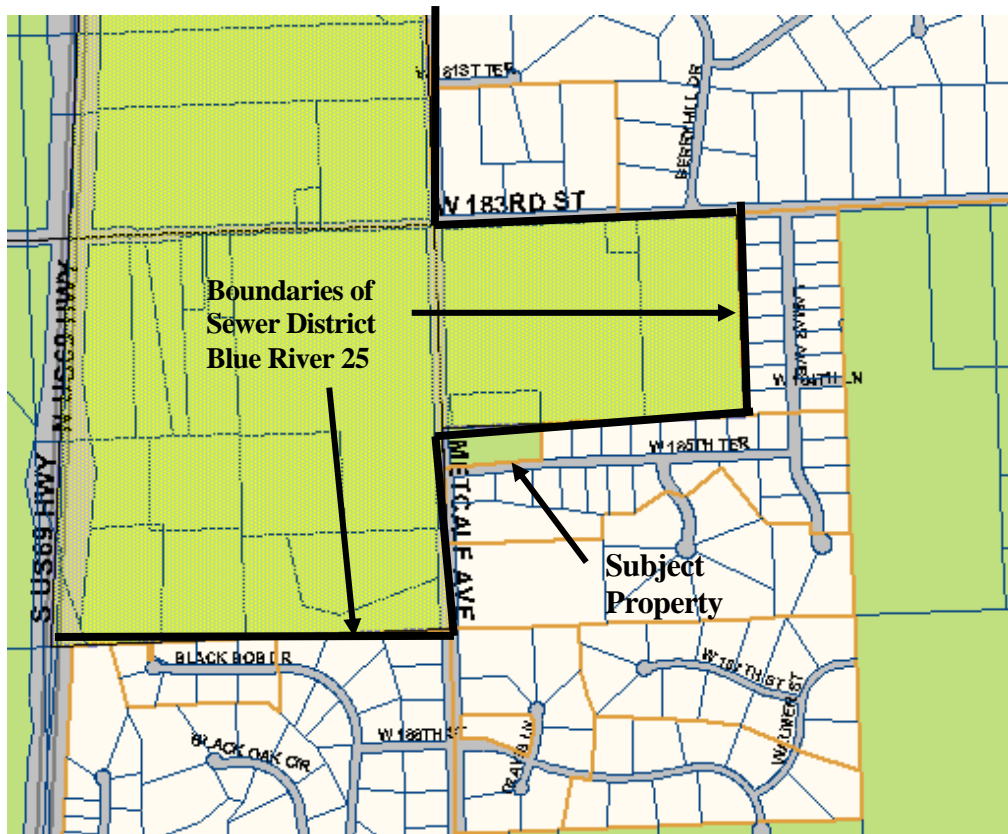
Required: *Storm drainage systems and facilities shall be available or designed and constructed to comply with the then applicable County design criteria, construction standards, policies and regulations for storm drainage systems and facilities. The development shall also comply with the then applicable County floodplain regulations.*

There are no changes to the existing storm drainage system proposed with this request. There is no floodplain on the property. ***This proposal meets this requirement.***

D. Wastewater (Category 1 & 2):

Required: *Wastewater collection and treatment shall be available or provided in accordance with the then applicable County policies, regulations and standards for onsite wastewater disposal and the Environmental Sanitary Code of the County. Provided further, however, if a subdivision contains any lots smaller than seven (7) acres in size and is located in any area where, in the opinion of the Chief Engineer of the Johnson County Unified Wastewater District, it is considered likely or reasonable to expect that sanitary sewer service would be available for a subdivision within a fifteen (15) year period of time, then the developer shall provide sanitary sewers or dry low-pressure sewers or dry gravity sewers.* A sewer district has been established on property abutting the subject parcel to the north and west, called Blue River 25. Sewers within this district are under construction and are anticipated to be within 500 feet of the proposed lots by mid 2010. It is the opinion of the Chief Engineer that dry sewers should be required. See attached comments from the Wastewater District.

Figure 3: Sewer District Boundary for Blue River 25



The owner is not opposed to the installation of low-pressure dry sewers and is not requesting a waiver from this requirement. Under ordinary circumstances, this system is installed at the same time as construction of other infrastructure improvements, i.e., street, waterlines, etc. However, the east portion of this property already has one house and there are no new streets or other infrastructure improvements required to serve the new lots. There have been no reported problems with the existing house septic system and unless it fails, sewers are not needed at this time. The owner proposes an alternative in regard to the timing for installation of sewers due to this unique situation. He is requesting that dry low pressure sewers be

installed in conjunction with sale and development of the vacant lot, proposed Lot 2. The owner will agree in writing to this proposal.

Subject to the owner agreeing to install the dry low pressure sewer on both lots prior to the sale/development of Lot 2, this application meets these requirements.

E. Water Supply (Category 2):

Required: *Potable water supply shall be available or provided with sufficient quantities for domestic needs and from a public water source. Sufficient water supply also shall be available or provided to meet the fire protection water flow rate and volume requirements of the then applicable County codes and standards. For purposes of this minimum infrastructure requirement, the water supply for fire protection shall be a continuous and dependable source of water supply/fireflow of at least one thousand (1,000) gallons per minute (GPM) to fire hydrants.*

The property is located within the Johnson County WaterOne service area and water is available from a 6 inch main line along the south side of 185th Terrace. There is an existing fire hydrant along this main located directly south of proposed Tract A. There are additional mains, 6 inch and 24 inch diameter, located on the west side of Metcalf. See comments from WaterOne.

A fire flow analysis shall be provided to and approved by the County Building Official prior to the recording of the final development plan (Plat).

Although the existing system may be adequate to meet the needs of the proposed 2 lots, a water main extension is likely to be required within the R-O-W for the future road to provide a looped system to serve future development of the property to the north. The width of Tract A is adequate to allow for this construction. ***Subject to compliance with the County Fire Code, this proposal meets this requirement.***

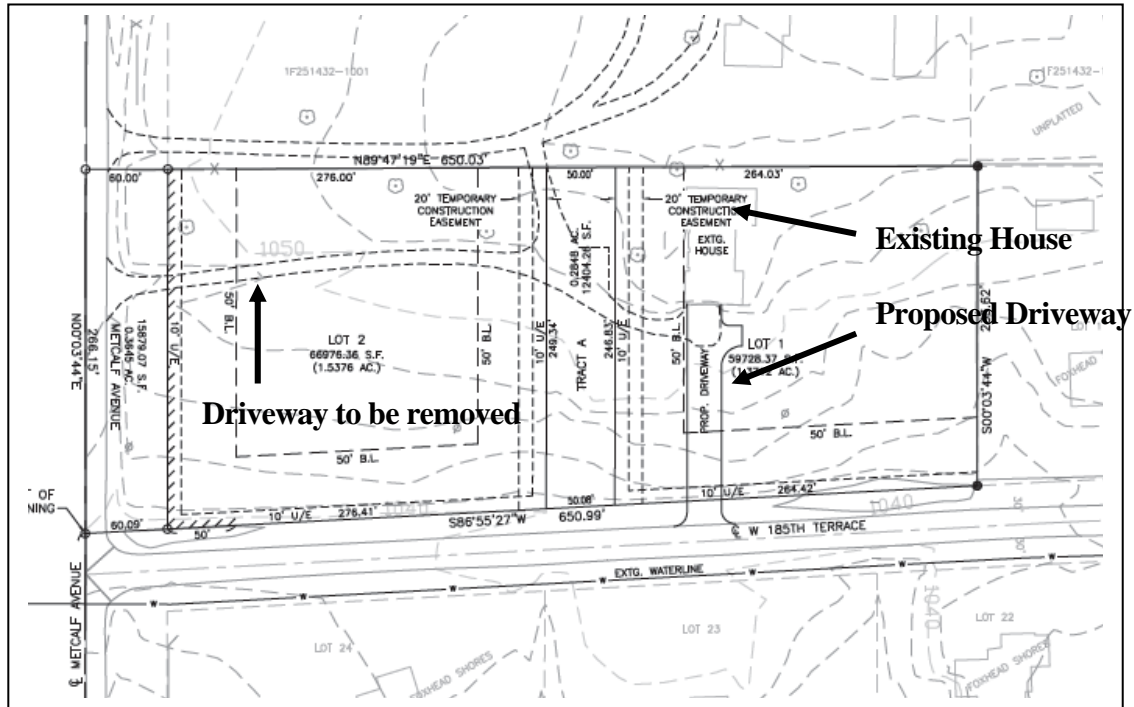
Summary of Infrastructure Issues: This application meets the minimum infrastructure requirements.

STAFF ANALYSIS

Zoning:

The applicant is requesting rezoning from RLD, Residential Low Density District to PRN1, Planned Residential Neighborhood 1 District (1-acre minimum lot size), to facilitate a preliminary development plan (plat) for two proposed residential lots, approximately 1.5 acres in size, and one tract for future public street, encompassing a total of 3.7 acres. One of the proposed lots, Lot 1, has an existing single-family house on private septic system and driveway access to Metcalf since 1940. The applicant is proposing to leave the existing house on this lot but reconstruct the driveway to provide access from 185th Terrace instead of from Metcalf. Tract A, situated between the proposed lots, is planned for future public street construction to provide access to undeveloped property to the north. There are no plans to construct this street at this time but the width of the tract is wide enough to accommodate construction of a local street to current County street standards. Lot 2 is proposed as a residential lot with limits of no access along Metcalf and along 50 feet of 185th Terrace. Driveway access to this lot would be from 185th Terrace.

Figure 4: Proposed subdivision



Staff has reviewed the application with respect to the “Golden” land use criteria and concluded the following:

1. Whether the residential use would be consistent with the zoning and uses of nearby properties.

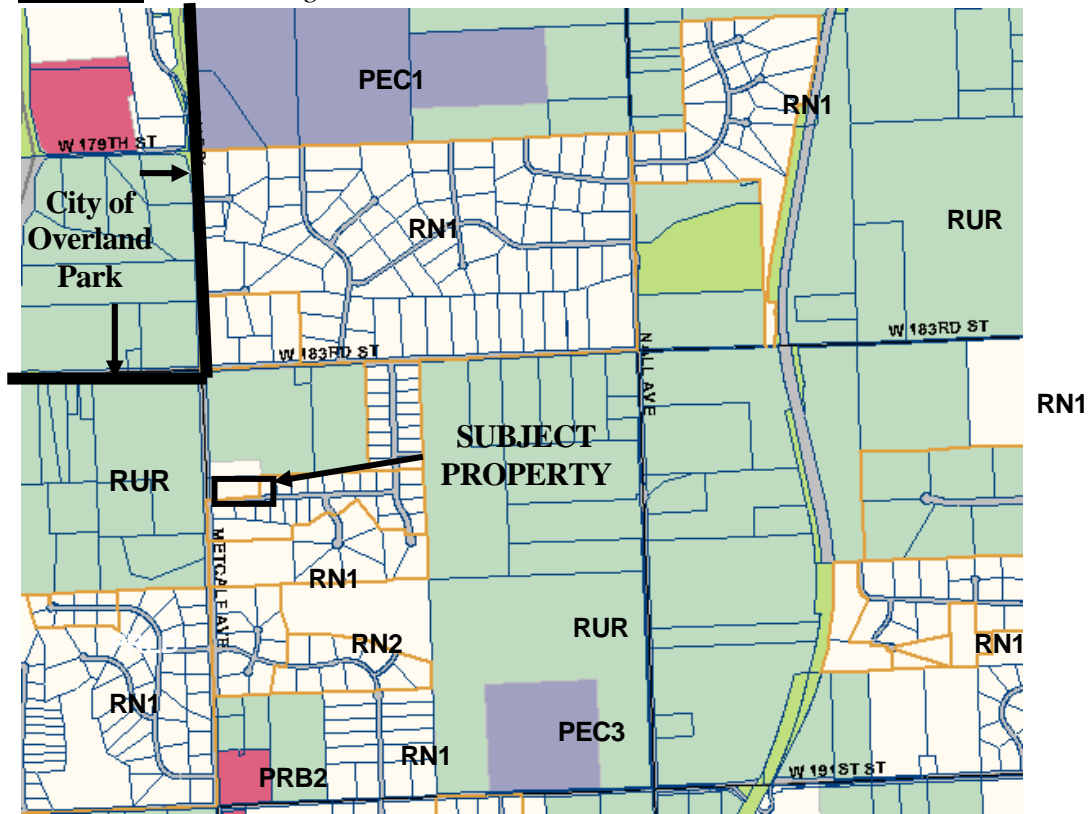
Nearby properties to the north and west are zoned RUR. Property immediately to the north was approved for rezoning from the RUR to the RLD district (3.3 acres) and preliminary and final plats for two lots of Canterbury Hill, one 3.3 acres and one 35.6 acres, were approved in 2002. Property to the west, across Metcalf is undeveloped. In 2007, a request to rezone this property to the PRN1 district and approval of a preliminary plat for 51 residential lots was recommended for approval by the Zoning Board and staff but later withdrawn prior to a final decision. It is anticipated that once sewers are available to these properties, residential development will occur.

Properties to the south and east are zoned RN1 and are developed with single-family homes within the Foxhead Shores subdivision. The lots within this subdivision are generally 1 to 1½ acres in size and were developed prior to the 2 acre minimum size for installation of septic systems. Property further to the south is zoned RN2 and platted as the Estates of Prairie Glen subdivision. Lots within this subdivision range in size from 2 to 4 acres and have been developed with both septic systems and dry sewers in anticipation of sewers being available to the area in the future.

The Overland Park city limits are one-quarter of a mile to the northwest. Overland Park’s Master Plan calls for low-density residential (1-5 units/acre) uses on the land north of 183rd Street.

It is anticipated that vacant land in this area will be developed once sanitary sewers are available. The proposed planned residential zoning and use appear to be consistent with the surrounding residential zoning and land uses.

Figure 4: Area Zoning



2. Whether the use is compatible with the character of the neighborhood.
The character of the immediate area is primarily residential, with some vacant and agricultural uses. There are subdivisions and tracts of land ranging from 1 to 45 acres in size. As such, the proposed use is in-fill development and in keeping with residential development in the surrounding area. Given PRN1 zoning and comparing the proposed lot sizes to existing surrounding development the proposed residential use is consistent and compatible with the character of the neighborhood.
3. Suitability of the property for uses to which it has been restricted.
The property is presently zoned RLD, Residential Low Density District, which allows residential uses on lots greater than 3-acres in size. The present large-lot residential use could continue in the near term but it is anticipated that once sewers become available to the area, the area to the north and west will develop with more dense residential lots and the current density may be less viable.
4. Extent of detrimental effects to nearby parcels should the rezoning be approved.
Nearby land uses include residences and accessory agricultural use buildings on rural-zoned parcels and within existing residential subdivisions. The subject rezoning would allow lots of similar size and orientation to those that already exist in the area; therefore, the proposed rezoning should produce no detrimental effects to nearby parcels.
5. Length of time the property has remained vacant as zoned.
The property is not vacant, according to County records; the existing home was built in 1940.

6. Relative gain to the public health, safety and welfare as opposed to the hardship imposed upon the landowner by denying the request.

The proposed rezoning would allow the development of one additional lot which is similar in size to the adjoining Foxhead Shores subdivision. The proposed preliminary plat would reserve the ability for future street connection with development of the property to the north, thus reducing the need for an additional intersection on Metcalf, and eliminate an existing driveway access onto Metcalf, thus improving potential points of conflict. There would be relatively no gain to public health, safety and welfare with the denial of this request.

7. Whether the use is in keeping with the Comprehensive Plan.

This property is located in the Growth Policy Area – Planned Residential of the Blue Valley Area Plan of the *Rural Comprehensive Plan (Plan)*. The Growth Policy Area provides for infill development of low-density residential uses that complement existing residential development and promote compatibility of existing and future uses. The proposed preliminary development plan (plat) shows low-density residential with a density similar to subdivisions in the surrounding area; therefore, the proposed PRN1 residential use of the subject property is in keeping with the *Plan*.

Preliminary Development Plan (Plat) Request:

The applicant proposes two lots, containing approximately 1.5 acres each, with one tract for future street construction access to future development to the north.

The *Johnson County Zoning and Subdivision Regulations* provides review criteria for preliminary development plans (plats). This preliminary development plan (plat) has been considered with respect to the following criteria:

1) Protection from Undue Water Pollution:

The primary water pollution concerns associated with this application involve wastewater disposal and soil erosion. These topics are addressed under the respective headings below.

2) Availability of Water:

Please see the Minimum Infrastructure Requirements discussion, Item E., on page five of this report.

3) Soil Erosion:

Soil erosion in the proposed development can be avoided by minimizing land disturbing activities prior to and during all construction (vegetation removal, grading, building, future street construction, etc). There is notation on the proposed preliminary and final plat that in accordance with NPDES regulations, a Land Disturbance permit shall be required prior to any land-disturbing activities.

4) Highway or Public Road Congestion:

The preliminary development plan (plat) shows both of the proposed lots served by the existing local street, 185th Terrace. This would add two driveways to the local street and remove a driveway with direct access from the arterial, Metcalf. The removal of the driveway to Metcalf would fulfill the criteria that lots shall not have access directly onto a CARNP designated arterial roadway and reduce the potential points of conflict.

Tract A, as shown on the proposed preliminary plat is designated as a future street to enable access between the property to the north and 185th Terrace/Metcalf. This future street will allow the area to develop as a connected whole, with adequate street connections and arterial access without placing undue congestion or additional points of conflict on public roads.

5) Wastewater Disposal:

The applicant proposes construction of dry sewers as part of the sale and development of Lot 2. Lot 1, has an existing single family home and private septic system. A home and private septic system on Lot 2 will require a Environmental Sanitary Code rule exception/variance from the 2 acre minimum size requirement and a permit from the County Environmental Department. As mentioned in the Infrastructure Section, installation of dry sewers will be required for each proposed lot, since sewers are anticipated to be available to this area within the next 15 years (anticipated by mid 2010).

6) Scenic, aesthetic, historic, rare or irreplaceable features:

A review of aerial photographs does not reveal any rare or irreplaceable features associated with the site. A review of the Historic Sites Map of the Johnson County Comprehensive Plan reveals that the site is neither an historic site, nor is not traversed by any portion of the Santa Fe or Oregon-California Trails.

7) Water Quality:

With the proper controls as set forth in the County's Land Disturbance permit requirements, the soil erosion potentials for this site will be minimal. There is notation on the preliminary development plan (plat) and final development plan (plat) that a Land Disturbance permit shall be required prior to any land disturbing activities.

8) Ground Water:

The primary ground water concern is wastewater disposal. See #5 above.

9) Stormwater Controls:

A stormwater management plan is not required for the proposed subdivision.

10) Mineral Resources

The applicant has added notation on the preliminary development plan (plat) stating that all mineral rights will be transferred with the sale of each proposed lot.

11) Preservation of Public Open Space:

Article 27, Section 6 of the *Johnson County Zoning and Subdivision Regulations* addresses public open space preservation. Based upon the intended use, the preliminary plat is deemed a "Development Project," and is therefore, subject to the Park Land Dedication requirements of Article 27 of the Regulations. An appropriate stipulation is provided in the stipulation section below.

12) The Comprehensive Plan

The proposed rezoning and preliminary plat are considered in-fill residential development in keeping with the Blue Valley Plan section of the Rural Comprehensive Plan. The lots are of size and configuration consistent and compatible with the adjoining Foxhead Shores subdivision.

Environmental Department: Please see attached comments

Public Works Department: Please see attached comments

Wastewater District: Please see attached comments

WaterOne: Please see attached comments

PLANNING STAFF RECOMMENDATIONS

1. Planning staff recommends **approval** of PRN1 zoning.
2. Planning staff recommends **approval** of the preliminary development plan (plat) with stipulations.
3. Planning staff recommends **approval** of the final development plan (plat) with stipulations.

If the Zoning Board disagrees with staff's recommendations and elects to recommend denial of the proposed rezoning, preliminary development plan (plat), and final development plan (plat), the Zoning Board will need to state reasons for doing so, for the record.

Recommended Stipulations:

1. The property shall be platted in accordance with the final development plan (plat) attached hereto as Exhibit A, except as modified by these stipulations.
2. This subdivision has low pressure dry sewers to be constructed by the Owner. Therefore, prior to recording the final development plan (plat), the Owner shall enter into an improvement agreement prepared by the County, which requires, among other things, plans for the dry sewer improvements. The agreement to construct dry sewers shall be triggered by the sale and development of Lot 2.
3. The landowner shall obtain all appropriate wastewater permits (including Environmental Sanitary Code rule exception/variance, as required) and building permits before building construction may begin on the subject property.
4. A dedicated sanitary sewer easement shall be shown on the final development plan (plat) along the entire length of 185th Terrace and on one side of Tract A, prior to the plat being recorded.
5. A sewer district agreement encompassing the entire area of the property shall be executed by the Owners and filed with the County prior to recording the final development plan (plat).
6. The following Notes shall be added to the revised preliminary development plan (plat) and to the final development plan (plat):
 - a. No driveways are allowed in areas marked Access Control.
 - b. This proposed two-lot subdivision is considered to be a Development Project and therefore is subject to a fee in lieu of park dedication in accordance with the requirements of Johnson County Resolution No. 046-94.
7. The Note regarding an escrow account for future road improvements shall be revised on a revised preliminary development plan (plat) and included in the final development plan (plat), as follows:
 - a. The Owners did not pay into an escrow account, so lots may be included in a benefit district if Metcalf or 183rd Street is improved.

8. The Owners shall provide a preliminary water line plan including fire hydrant location, and shall comply with the adopted Building Codes Fire-Flow Guidelines prior to issuance of a building permit.
9. The Owners shall execute and follow the provisions of a Land Disturbance Permit per NPDES requirements prior to commencement of removal of vegetation, grading or construction on the site.
10. The portion of the existing driveway within the R-O-W for Metcalf shall be removed prior to the final development plan (plat) being recorded.

Reasons for Recommendation to Approve the Rezoning, Preliminary Development Plan (Plat) and Final Development Plan (Plat):

1. The proposed PRN1 zoning is compatible with the zoning and uses of surrounding properties.
2. The proposed PRN1 zoning is in-fill residential development in keeping with The Blue Valley Plan of the Rural Comprehensive Plan.
3. The preliminary development plan (plat) is in conformance with the PRN1 Zoning District requirements within the *Zoning and Subdivision Regulations*.
4. The preliminary development plan (plat) indicates the removal of an existing driveway from a major arterial.
5. The preliminary development plan (plat) reserves the area for future street connection with the undeveloped property to the north.
6. It is anticipated that the area will develop rapidly once sanitary sewers are available.

Enclosures: Vicinity Map; Preliminary Development Plan (Plat); Final Development Plan (Plat); Applicant's Preliminary Analysis Report; Comments from Johnson County Environmental, Johnson County Public Works, Johnson County Wastewater, WaterOne