



STAFF REPORT

April 15, 2009

To: Southwest Consolidated Zoning Board
Fr: Diane Wicklund, AICP, Principal Planner
Re: Application No. SW-PP-2904(MC)

APPLICATION INFORMATION

Applicant & Landowners: Donald and Sandra Eidemiller

Application Type: Preliminary Plat

Requested Action: Preliminary Plat approval to create 8 residential lots on approximately 100 acres to be known as Edgewater Estates

Site Address: 183rd St. and Edgerton Road

Legal Description: Part of the SE Quarter of Section 25, Township 14, Range 21

Existing Land Use and Zoning: Vacant and Agricultural – RUR, Rural District

Existing Improvements: None

Site Size: Approximately 100 acres

Project Description: To plat approximately 100 acres into 8 residential lots, to be known as Edgewater Estates. The smallest lot would be about 10 acres in size and the largest lot is about 20 acres. This is a two-phased subdivision. As proposed, Phase 1 would encompass three lots with a proposed driveway off of Edgerton Road for Lot 3 and a shared driveway off of 183rd Street for Lots 1 and 2. Phase 2 would encompass five lots accessed by a new public street (cul-de-sac).

Zoning History: The property was zoned RUR, Rural district, as part of the county wide rezoning in 1994.



Aerial View of Subject Property



Surrounding View of Subject Property

MINIMUM INFRASTRUCTURE REQUIREMENTS

The Johnson County Zoning and Subdivision Regulations, Article 9, Section 2.G. requires that all Minimum Infrastructure Requirements specified in Article 31 of the regulations be met prior to rezoning or platting of any site. The infrastructure categories for RUR zoning are reviewed below.

A. Fire Station Service Area:

There is not a “Fire Station Service Area” requirement for parcels in the Rural district. However, fire protection is provided by the Johnson County Fire District No. 1 with the nearest fire station located at approximately 199th Street and Edgerton Road in Edgerton (approximately 2 miles to the south).

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

B. Roads:

This is a two-phased subdivision. Phase 1 would encompass three lots with a proposed driveway off of Edgerton Road for Lot 3 and a shared driveway off of 183rd Street for Lots 1 and 2. Phase 2 would encompass five lots accessed by a new public street (cul-de-sac). Edgerton Road is a 22-foot wide paved, county-maintained road designated by CARNP as a Type III Parkway planned for four lanes and 150-200 feet of right-of-way. 183rd St. is a 20-foot wide gravel, county-maintained road designated by CARNP as a Type I Minor arterial planned for two lanes and 120 feet of right-of-way.

Roads Required (Category 1):

- *A minimum of one road, with at least a 20-foot wide gravel driving surface, shall provide continuous access from the subdivision or development tract to a road constructed with at least an asphaltic concrete surface. Edgerton Road is paved. 183rd St. is gravel and 20 ft. wide. **This proposal meets this requirement.***
- *All abutting gravel roads shall have at least a 20 ft. wide driving surface. Edgerton Road is paved. 183rd St. is gravel and 20 ft. wide. **This proposal meets this requirement.***
- *Lots in new subdivisions shall not have access directly onto a Highway or Arterial street. The Regulations require that a local street be constructed to serve all lots in a subdivision. The applicant is proposing that the three lots in Phase 1 have direct access to the arterial streets (Edgerton Road and 183rd St.) **This proposal does not meet the Regulations. The applicant is asking for a waiver from this requirement to instead allow lots to directly access an arterial road. (See applicant’s “Plat Exception Analysis Report,” attached.) Public Works staff does not recommend a waiver from this requirement. See the attached memo from Public Works.***

Category 6:

- *All roads in any subdivision shall be designed and constructed in compliance with county road standards. The applicant is requesting a waiver from building a local subdivision street for Phase 1. The applicant has stated that they will construct the new local subdivision street (cul-de-sac) for Phase 2, to the Type B Residential street standard (26 foot wide pavement with an open ditch section). **For Phase 2, this proposal meets this requirement.***

C. Stormwater (Required):

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. The applicant has submitted their stormwater management plan and it has been approved by Public Works. There is significant floodplain on the property as shown on the preliminary plat. Required stream buffer zones are also identified on the plat. **This proposal meets this requirement.***

D. Wastewater (Required):

Category 1:

*Wastewater collection and treatment shall be available or provided in accordance with Environmental Sanitary Code for on-site wastewater disposal. The subject property is not within an established sewer district. All lots exceed the 2-acre minimum Sanitary Code requirement for private septic systems for each lot. Permits must be obtained from the Environmental Department prior to building permits being issued for new houses. The Environmental Department has stated that septic systems can not be installed within floodplain area so future owners will need to be aware of the floodplain restrictions on each lot (which will be shown on this preliminary plat and on a final plat if approved). See the attached memo from the Environmental Department. **This proposal meets this requirement.***

E. Water Supply (Category 1/ Required):

Recommended: *It is required that a potable water supply be available or provided from a public water source. Rural Water District No. 7 staff (see attached letter) has indicated that domestic water service is available to serve the proposed subdivision and will meet fireflow requirements. There is an existing 8-inch main on Edgerton Road, but there is no existing main along 183rd St. The applicant has agreed to install new water lines in order to serve this subdivision. **This proposal meets this requirement.***

Summary of Infrastructure Issues: This application does not meet all of the minimum infrastructure requirements. The applicant has requested a waiver from the above mentioned infrastructure deficiency (not building a local subdivision street for Phase 1). A waiver would need to be granted, if the plat is to be approved. Staff's review of the requested waiver is at the end of this report.

PRELIMINARY PLAT REVIEW

The preliminary plat has been reviewed with respect to the *Zoning and Subdivision Regulations* and the *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County*. The following is a listing of the review criteria and staff comments, if any, with respect to each:

A. Protection from Undue Water Pollution:

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

B. Availability of Water:

The property is located within Rural Water District No. 7. Please refer to the section regarding “Minimum Infrastructure Requirements, Water Supply.”

C. Soil Erosion:

The points at which soil erosion will occur are (i) during grading in preparation for the construction of streets and residences or (ii) if vegetation cover is not well maintained on the site, especially near a waterway or stream. Erosion should be minimized during and after construction through the use of structural erosion control devices, minimizing the destruction of vegetative land cover, and replanting vegetation following construction.

The applicant shall follow the County’s Land Disturbance Permit requirements prior to commencement of any grading or construction on the property.

D. Highway or Public Road Congestion:

The applicant is requesting a waiver from building the required local subdivision street for Phase 1. Staff’s review of the requested waiver is at the end of this report. *See the attached memo from Public Works regarding their views on the requested waiver.*

E. Wastewater Disposal:

The property is not within an established sewer district. Please refer to the section regarding “Minimum Infrastructure Requirements, Wastewater.” Permits from the County Environmental Department will be required for the installation of on-site wastewater disposal systems.

F. 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 not an historic site and is not traversed by any portion of the Santa Fe or Oregon-California Trails.

G. Water Quality:

There are floodplain and natural drainage areas located on the property that have been identified on the preliminary plat. The approved stormwater management plan along with the required erosion control measures and stream buffers, will address the concerns of water quality stated in the letter from the Hillsdale Water Quality Project.

H. Groundwater:

The primary groundwater concern is wastewater disposal, as discussed above (in Subsection E).

I. Stormwater Controls:

The stormwater management plan has been approved. See “Minimum Infrastructure Requirements, Stormwater” and attached comments from Public Works staff.

J. Mineral Resources

The applicant has indicated that rights, with respect to any mineral deposits on the property, will be sold with the land. The applicant has provided a letter to this effect.

K. Preservation of Public Open Space:

Board of County Commissioners Resolution No. 046-94 enacted policies and procedures to guide the implementation of the Park Land Dedication requirements.

This proposed 8-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. The parkland fees will be assessed at the time of final platting.

L. The Comprehensive Plan:

The *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County* (Plan) indicates that this development is within the Rural Traditional Policy Area, which identifies the standard density as 10 acres per dwelling. The proposed density is very low and is consistent with the *Comprehensive Plan*.

M. Uses and Character Of Nearby Properties:

The surrounding zoning is RUR, Rural District. This proposal is very low density and will be in keeping with the rural character of the area.

STAFF’S RESPONSE TO THE APPLICANT’S PLAT EXCEPTION ANALYSIS REPORT

The following statements (in italics) were made in the Applicant’s Plat Exception Analysis Report (attached). Staff response to each follows:

1. *Page 3: “While Lots 1, 2, and 3 meet the minimum road frontage requirements established by the County Zoning Regulations, they are significantly impacted by the regulatory floodplain and county stream setbacks. In this case, by not requiring the construction of an internal street for lots 1, 2 &3, and granting the requested exceptions, would allow the property to develop with appropriate access. In addition, this action, would not require the applicant to cross the creek with a road or driveway, disturb the regulatory 100- year flood plain and otherwise disturb and or destroy the natural waterway, thereby increasing erosion and detrimentally effecting water quality.”*

A local subdivision street providing access to all lots is required for this subdivision. Although there is significant floodplain and natural drainage areas on the property, which can make subdivision layout challenging, Staff feels that disturbing these areas with a road or driveway from 183rd St. has less impact then allowing direct access with a road or driveway to a CARNP designated Parkway (Edgerton Road). According to Public Works, crossing the creek with a new street (to serve Phase 1) off of 183rd St. would not have a significant impact to the streamway.

2. *Page 4: “The CARNP Triggers Policy, dated 27 June 2002, permits driveway access points to be located on these roads, but establishes a policy for each lot. In this case, those*

lots located on a Parkway Road are to have a minimum of 1000 feet of frontage and those on a Type I Minor Arterial Road a minimum of 400 feet of frontage. The same distances apply to driveway separation.”

The CARNP Triggers Policy is a guide for prioritizing road improvements. It does not address a policy for each lot. It does, however, state criteria for each roadway type. Those criteria do include street spacing and street frontage requirements. The Zoning Regulations are what permit access to property and how that access (whether a street or driveway) shall be allowed. In this case, per the Zoning Regulations, a public street is required and direct driveway access to the arterial roads is not allowed.

Public Works Department: See attached memo.
Rural Water District No. 7: See attached memo.
Environmental Department: See attached memo.
Hillsdale Water Quality Project: See attached memo.

RECOMMENDATION

Preliminary Plat

Planning staff recommends **denial** of a preliminary plat for an eight-lot subdivision to be known as Edgewater Estates because it does not comply with the County’s Subdivision Regulations in regard to constructing a local subdivision street for Phase 1.

Alternatively, Planning Staff could support the application if the owner would agree to construct a new local subdivision street for Phase 1.

Should the Zoning Board recommend approval of the preliminary plat **requiring the construction of a new local subdivision street for Phase 1**, then Staff recommends the following stipulations:

1. Add the following notes to the preliminary and final plats (if approved):
 - a. This proposed 8-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. The parkland fees will be assessed at the time of final platting.
 - b. No driveways are allowed in areas marked Access Control.
 - c. The Official Street Line indicates the area that may be needed when Edgerton Road is widened. Therefore, the front setback line is measured from the Official Street Line. Improvements are not allowed in this area. If improvements are made in this area, such as landscaping, trees, and/or fences, but not structures or buildings, then the Owner shall enter into an Improvement Agreement with the County prior to installation of said improvements. Improvements constructed in this area will be removed when the road is widened.
 - d. The County is not required to provide road dust control.
 - e. Basement drains and daylight basements shall not be drained by grading into the natural drainage areas or flood plain.

- f. The developer did not pay into an escrow account for future road improvements, so lots may be included in a benefit district if Edgerton Road is improved.
 - g. No construction or disturbance of any type including clearing, grubbing, stripping, fill, excavation, linear grading, paving, or building is allowed in the "Stream Buffer Zone" except by permission from the County Engineer. Dense stands of native vegetation shall be maintained in the 25 feet closest to the top of the bank.
 - h. Septic systems shall not be installed in floodplain areas.
2. The preliminary plat shall be revised to show the following:
 - a. 60 feet of right-of-way shall be dedicated along the entire frontage of the development for both 183rd Street and Edgerton Road.
 - b. The Official Street Line shall be shown at 75 feet from the centerline of Edgerton Road.
 - c. Access control shall be shown along the entire frontage of the development for both 183rd Street and Edgerton Road, except for the location of the new local subdivision streets.
 3. All appropriate Wastewater permits shall be obtained prior to issuance of any building permits.
 4. Septic systems shall not be installed in floodplain areas.
 5. A land disturbance permit shall be obtained prior to any construction or land disturbance activities.
 6. A revised preliminary plat shall be submitted prior to submitting the final plat application.
 7. A revised preliminary plat shall be submitted showing the location of a new local subdivision street for Phase 1.
 8. This subdivision has two new streets (a new cul de sac street each for Phase 1 and Phase 2) to be constructed by the developer. The streets will need to be designed per the current Street Construction and Storm Drainage Standards for Subdivisions. Prior to filing the final plat, approved street plans, performance and maintenance bonds, and an improvement agreement must be furnished to the County.
 9. The owner shall construct, or submit a letter indicating they will provide potable water from a public water source (installation of new water lines) and 1,000 gpm fireflow, prior to recording the final plat.
 10. A fire hydrant location plan shall be submitted and approved by the Building Official at the time of a final plat application.

Reasons for Recommendation of Denial

The proposed preliminary plat does not comply with the County's Subdivision Regulations in regard to constructing a local subdivision street for Phase 1.

Waiver

Staff recommends **denial** of the waiver request to allow lots to have direct access onto a CARNP designated arterial street.

Staff finds that due to the nature of the development, the occupants of the facility will be endangered and the use would pose a threat to the health, safety or general welfare of nearby properties or the community at large for the following reasons:

1. One goal of the Comprehensive Arterial Road Network Plan and the Zoning and Subdivision Regulations is to guide development in a manner that will allow maximum transportation efficiency for the future arterial road network. A primary tool in maintaining the capacity of the arterial network is controlling the number and location of access points. Section 1 of Article 30 states “This Article establishes minimum standards so that subdivisions shall: Have lots that front onto Local or Collector Streets instead of onto Highways, Parkways or Arterial Streets...” Edgerton Road is a Parkway with potential future grade-separations planned for 175th Street and 199th Street. 183rd St. is a minor arterial street.
2. Article 30, Section 2,A,3,e,3 states that local streets facilitate the free flow of traffic and limit potential traffic hazards by preventing direct access (driveways) from all rural and residential lots onto Arterial Streets, Parkways, and Highways. Staff does not support a waiver for direct access from a residential lot or lots onto Edgerton Road or 183rd Street. Staff recommends requiring the construction of a local street (instead of the proposed shared driveway) for access to Lots 1, 2 and 3 and that the local street intersect 183rd Street at the approximate location of the proposed driveway access easement shown on the preliminary plat.
3. The subject property is vacant land. Although there is significant floodplain and natural drainage areas on the property, which can make subdivision layout challenging, Staff feels that disturbing these areas with a road or driveway has less impact than allowing direct access with a road or driveway to a CARNP designated Parkway (Edgerton Road). According to Public Works, crossing the creek with a new street (to serve Phase 1) off of 183rd St. would not have a significant impact to the streamway.

Enclosures: Vicinity Map
Preliminary Plat
Preliminary Plat Analysis Report and Plat Exception Analysis Report
Public Works Memo
Environmental Department Memo
Rural Water District No. 7 Memo
Hillsdale Water Quality Project