

EL DORADO

K A N S A S

PLANNING COMMISSION MINUTES - DRAFT March 25th, 2021 6:30p.m.

1. CALL TO ORDER & ROLL CALL

Chairman Tetrick called the meeting to order at 6:30pm.

Members Present

Steve Fellers
Scott Hackler
Frank Hughes
Scott Leason
Brad Long
David Stewart
Kelly Tetrick
Gerald Watson

Staff Present

Jay Shivers
Scott Rickard

Others Present

Roger Cutsinger	Savoy Company
Brian and Angie Martin	2949 W. 4 th Avenue
Chadd Pelnar, Attie	327 Northern Street
Xiang Xin Jiang	2942 W. 3 rd Avenue
Seth and Tonyse Rogers	2845 Western St.
Ron and Dawn Tordman	2825 Western St.
Dana Jordan	425 Hunton Rd.
Mitch	2858 W. 3 rd Ave.
Jennifer Blair	empty lots 3 rd Ave.
Bill Blair	empty lots 3 rd Ave.
Austyn Mears	2820 W 3 rd Ave.
Valeria Mears	2820 W 3 rd Ave.
Nathan White	302 Northern St.
Howard Foster	2934 W. 3 rd Avenue
Unreadable	2850 W. 4 th Avenue
Bryna Boldra	2901 W. 3 rd Avenue
Jeremy Boldra	2901 W. 3 rd Avenue
Kathee Vaught	331 Northern St.

Katherine Gifford	2834 Western St.
Unreadable	2834 Western St.
Brian Lagaly	
Will Clevenger	Garver
Chris Bohm	Garver

2. APPROVAL OF MINUTES

Commissioner Hackler moved to approve the minutes of the December 17th, 2020, meeting, seconded by Commissioner Stewart. The motion passed (8-0).

3. NEW BUSINESS

ITEM NO. 1 – CASE NO. 21-01-REZ: PUBLIC HEARING FOR THE CONSIDERATION OF A REQUEST TO REZONE 5 ACRES AT THE SOUTHEAST CORNER OF BOYER ROAD AND W. THIRD AVENUE FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.

A. Presentation of Request

Mr. Shivers reviewed the staff memo. Mr. Shivers said the land today is vacant and reviewed the surrounding land uses. Mr. Shivers said the primary difference between current zoning, R-1, and the proposed zoning, R-2, is the addition of two-family homes. Next he presented a zoning map and described the surrounding zoning districts.

Mr. Shivers said the city regulates land use, lots sizes and widths, structure heights, and setbacks; the city does not regulate the color and exterior features of homes, whether it is rented or owner-occupied, or the quality or size of homes. Mr. Shivers said the 2030 Comprehensive Plan recognizes the need for new housing within the city and described the housing goals listed in the document. He showed the Future Land Use Map (FLUM) for the city and discussed how the Comprehensive Plan encourages two-family housing in single-family neighborhoods. Mr. Shivers said the two types of homes do not require screening, such as when adjacent to industrial, commercial, or multi-family housing.

Mr. Shivers said the rezoning could affect surrounding property values, though the city doesn't decide the larger factors that affect values, such as sizes, quality, and other features. Mr. Shivers said the city recommends approval of the rezoning request.

Chris Bohm with Garver Engineering and representing the applicant said he feels this is a good transitional zoning between the commercial and industrial properties to the south and residential to the north. He said they held an informational meeting earlier in the week with several of the neighbors. They brought up several concerns he feels they have addressed.

Chairman Tetrick said they [Planning Commission] were not at the meeting and asked about what concerns have been addressed. He noted they have received letters from several homeowners and reviewed a petition.

Will Clevenger with Garver Engineering said the first concern is with two-family homes, drainage, density, and if they are owner-occupied, and how the neighborhood will be structured. He said Mr. Lagaly gave an overview how he would operate the development.

B. Public Hearing

Chairman Tetrick opened the public hearing.

Chad Pellnar, 327 Northern St., said he's lived there eight years. He said he knew there would be new homes around him but not duplexes. He said he knew the view behind his house would change, but never considered the makeup of the neighborhood could change. He said him and his neighbors bought their property knowing it was R-1 and asked that it remain R-1.

Nathan White, 302 Northern St., said he asks that the Planning Commission to vote no on the rezoning. He said he built his dream home knowing everything around him would be single-family residential. He said he's worried about property decline, drainage, safety, H₂S, fencing around tank batteries, sidewalks to schools, increase in crime and traffic, and infrastructure cost. He said the builder doesn't know the infrastructure cost and doesn't want a three amigos/Griler Addition situation. Mr. White showed the Prairieland Estates plats. He showed a lot (Lot 1, Block 3, Prairie Land Estates 2nd) and said it has architectural covenants. Mr. White said the developer, Brian Lagaly, shared information on his developments in Wichita. Mr. White said the property value of those was not was Mr. Lagaly said they were. He also said Linda Jolly's property values of the neighborhood at the information meeting were also incorrect.

Mr. White said the developer said drainage will not be an issue.

Chairman Tetrick said it has to be addressed, a requirement by the city.

Mr. White says the developer does not know the infrastructure cost. Mr. White showed property values for two-family homes in Maize school district. He showed home values in his own neighborhood. Mr. White said a property within 200 feet was not notified; he said he measured with a tape measure and got 199 feet and Butler County GIS showed 199.3 feet.

Chairman Tetrick asked how he measured through a house. He said he understands but Mr. White also has petition signatures from over 2,000 feet away. Mr. Shivers said the city uses GIS to calculate the 200 foot area.

Mr. White said he asks the Planning Commission to vote no on the rezoning.

Commissioner Fellers asked what Mr. White's concern for hydrogen sulfide is on the subject property that is not on Mr. White's property.

Mr. White said the comment came up at the information meeting. The concern is homes next oil wells. Commissioner Fellers asked if Mr. White checked the levels when he built his house. Mr. White said he has not checked the levels at his house. Mr. White said he can sometimes smell the rotten egg smell.

Brian Martin, 2949 W. 4th Avenue, said he was worried about disturbing the land around the tank batteries and wells. He said he's been a surveyor for 15 years. He said his main concern is traffic, they've already had problems at 3rd and Boyer, but those have been addressed to a point. Drainage is a concern, the engineers say it will be 1.5% slope. He says fences and sod will make that difficult. Mr. Martin says they've been told classrooms are okay and can be added to, but they're adding students from Flint Creek and now this. He said he's worried about traffic and no sidewalks, has been a concern since he moved here. He said he's not objecting to single-family homes on the property, just duplexes. Mr. Martin said the developer said he can't build a house for under \$200,000. Mr. Martin said there is a new subdivision in Wichita with houses for \$205,000.

Commissioner Hackler asked if he was concerned about lack of sidewalks in this development.

Mr. Martin said his concern is the city as a whole. He talked to the city about it. There's no sidewalks in this area. Mr. Martin asked if there is a subdivision committee to comment on plats. Mr. Shivers said the Planning Commission reviews the plats and the plats have to meet the regulations. Mr. Martin said previous owner gave rights to drain onto the subject property.

Jeremy Boldra, 2901 W. 3rd Avenue, said he also sent a letter. He said Prairie Land Estates is the nicest area in El Dorado. He wanted to be in a single-family neighborhood. If he knew R-2 would be nearby he would have gone elsewhere. Mrs. Boldra said Ramon Criss said the subject property would be single-family homes. She said they purchased the home knowing it was zoned for single-family. She says everyone is screwed because one person wants to change the zoning. She fears it will turn into low-income housing. She said traffic, crime, noise, police presence, and trash will become their normal. She will sell her home tomorrow if the rezoning passes.

Commissioner Stewart said the letter had strong language and asked them to explain how their line about development planning to be built illegally without their consult, quoting from letter, as well as how they think this is fraudulent.

Mr. Martin said they weren't notified and then they were notified and felt like it was slipped in without any knowledge.

Commissioner Stewart asked if they received a letter.

Mr. Martin said they did, but thought it was late.

Mr. Shivers said he made a mistake and that letters were resent to the neighborhood.

Mrs. Martin said it was fraudulent because it's supposed to be one thing and now it's going to be another [the zoning].

Bill Blair, vacant lots on W. 3rd Avenue, said everyone is in a tough spot. He said he is a contractor and he would also build duplexes if asked. When people ask him about renovations, he said they talk themselves out of jobs when he asks if they'll get the value out of it. He said Brian Lagaly is a colleague. Mr. Blair said he has built developments like this before. He said

he's required to have covenants and barriers. As a homeowner, he is against this. He said it's a tough spot for everyone, the city needs growth. Mr. Blair asked about setbacks.

Chairman Tetrick said they have that information.

Jennifer Blair asked if the homes can be two stories.

Chairman Tetrick said yes, a single-family home could also be built two stories today. Chairman Tetrick said the original plan could allow 17 two-story houses.

Mrs. Blair said they wouldn't have purchased the vacant lots if they knew duplexes would be nearby. They have two potential buyers on hold. She said the proposed lots are small and they may build two-story homes. Mrs. Blair said they would love to see single-family homes.

Kathee Vaught, 331 Northern St., said the plans she has seen place the new structures 25 from her back fence. She said today it is an open field. She is concerned Adlesperger's lots at Boyer and Third will create traffic in front of his house. She said they have big drainage issues.

Chairman Tetrick said the rear setback is the same as R-1 on a curved street, which would be needed to build at this location.

Chadd Pelnar returned to the podium and asked if the original plan was for a straight road.

Chairman Tetrick said a cul-de-sac was needed behind the homes on Northern and that would reduce the current rear setback to 20 feet.

Kathrine Gifford, 2834 Western St., said she's lived there since July 2008. She is worried about property values. She said the neighborhood has children and they are monitored, usually have parents watching them. She said they have a neighborhood facebook group.

Attie Pelnar, 327 Northern, said the neighborhood is a family. She said she knew she would have neighbors, dynamics will be different.

There being no else to speak, the public hearing as closed.

C. Discussion by Planning Commission

Commissioner Hackler asked how many lots were in the original plat. Mr. Shivers said 17. Commissioner Hackler asked how many lots are proposed. Mr. Shivers said 14, one of those is part of the Prairie Land Estates Second Addition, so 13 new lots. Commissioner Stewart commented that the 17 lots were not final platted. Mr. Shivers commented that they are not approving a specific project.

Commissioner Hackler asked what is allowed on the triangular lots zoned C-1 to the west. Mr. Shivers said that lot and the one to the south are in a floodplain and have a large pipeline easement that makes development difficult to impossible. Mr. Shivers said the current residential

interest on the property is the first residential interest. Mr. Shivers has had primarily calls regarding commercial development on the property.

Commissioner Leason asked if the duplexes would be laid out similar to other homes in the addition. Mr. Shivers said the lots would be larger since duplex structures are larger than single-family homes. Mr. Shivers discussed the lower setbacks in R-2.

Commissioner Stewart asked about the southern platted lot on Northern Street and if it can remain as R-1. Mr. Shivers said he thought that would fall within their authority and they could exclude it in the motion.

Commissioner Stewart said he has an appreciation for the covenants and restrictions under which the southern lot on Northern was platted.

Commissioner Stewart said this isn't the first case in the last few years where R-2 is being perceived by the neighborhood as dramatically different from R-1. The Comp Plan doesn't imply that, his training and experience in his career doesn't imply that, but clearly the public perceives that. He asked if the board knew why.

Chairman Tetrick said he lives in a nice neighborhood with townhomes that were built by the same builder as his home. It doesn't affect his property value and he hasn't thought about it until today. He understands the property value concerns, he said it's a big investment. Chairman Tetrick said the letter implied the proposed project will be low-income housing, that's not what they will be. He said R-1 is pretty similar to R-2 as far as the Comprehensive Plan is concerned.

Commissioner Watson asked if they were concerned they would be rentals. Chairman Tetrick said they would be rentals. Mr. Shivers reminded everyone they are not approving a specific project.

Commissioner Stewart asked if anyone knows what percentage of current R-1 zoned area on the screen is rental houses.

Commissioner Long asked if the person with the petition could speak. Chairman Tetrick invited Mr. White to the podium. Mr. White said he started the petition. Commissioner Long thanked him and said the petition was well done. Commissioner Long asked if all the petition signatures are from home owners. Mr. White said they are not all home owners, some are from down the street that is renting that doesn't want an influx of crime. Commissioner Long said there may be rentals on Marmaton and Hunton and Simpson and asked if there are rentals in the area. Mr. White said there are rentals in the area, but not on Northern and Western. Commissioner Long asked if the people on Marmaton, Hunton, Simpson, Fourth, and Fifth signed the petition because their value was going to go down or Mr. White's value was going to go down. Commissioner Long asked what information Mr. White shared with the neighborhood when he asked them to sign the petition. Mr. White said he shared the petition document and they were worried about their property values going down.

Commissioner Stewart referenced item six in the petition about land contamination and the tank battery and asked Mr. White if he thought the property as it sits hurts his property value. Mr.

White said it doesn't help but it's already there and bought his property knowing it was there. Commissioner Stewart said he struggling to understand how the developer's ability to address drainage, as required by regulations, land contamination, and oil infrastructure doesn't help Mr. White's property value. Commissioner Stewart said the property owner making the request also has personal property rights. He asked if R-2 is a significant stretch from R-1 and if they think it will be a detriment to the neighborhood. He said he is not convinced. Mr. White said he wouldn't be concerned if the duplexes appraised for 500,000 dollars.

Commissioner Stewart thanked everyone for coming to the meeting. He said he has driven through and experienced the neighborhood. He said he understands the concern and has been affected by adjacent property owners that have significantly reduced his property value in this city. He said he can't justify the R-2 as an incompatible use next to R-1.

Commissioner Hackler asked the applicant about their intention to relocate the tank batteries and pump jacks. Mr. Lagaly said they are working with the oil company with the goal to remove the pump jack and tank battery. Mr. Shivers commented that they cannot increase oil infrastructure, the existing is grandfathered.

Chairman Tetrick asked if the city verified the signatures on the petition. Mr. Shivers said they received the informal petition on Monday and there was not a simple way to verify them all in a timely manner. Mr. Shivers said they trust they are correct.

D. Motion

Commissioner Leason moved to recommend approval of Case No. 21-01-REZ, an application by Bryan Lagaly to rezone 5 acres at the southeast corner of Boyer Road and W. Third Avenue, from R-1 Low Density Residential District to R-2 Medium Density Dwelling District, for reasons stated in the staff recommendation and heard at this public hearing, excluding the southern lot in the Prairie Land Estates Second Addition [Lot 1, Block 3], seconded by Commissioner Stewart.

Roll Call Vote

Steve Fellers	Y
Scott Hackler	Y
Frank Hughes	Y
Scott Leason	Y
Brad Long	Y
David Stewart	Y
Kelly Tetrick	Y
Gerald Watson	Y

The motion passed unanimously (8-0).

ITEM NO. 2 – CASE NO. 21-01-PLAT: CONSIDERATION OF THE PRELIMINARY PLAT OF DEER RUN ADDITION.

A. Presentation of Request

Mr. Shivers said it would create 13 lots and replat one lot in the Prairie Land Estates Second Addition and creates one new right-of-way cul-de-sac called Deer Run Court. Approval would allow the applicant to begin work on the final plat.

Will Clevenger, Garver Engineering, reviewed the plat. He said the southern lot in Prairie Land Estates Second Addition had a curved lot line that the replatting would address. Chris Bohm, Garver Engineering, said they have worked with the city on drainage. He said new floodplain mapping shows a larger floodplain and some fill will be needed on the site.

Commissioner Stewart asked to hear from them regarding Lot 10 potentially remaining as R-1. Mr. Lagaly said he understands the point of it and he has no problem with that.

Commissioner Stewart asked about the covenants and the effect of replatting the lot. Mr. Shivers said that would be a legal question he couldn't answer.

Commissioner Hackler asked if they planned to place a two-family home on Lot 11 and access it via Second Street. Mr. Lagaly said yes.

Commissioner Long asked if the only access is from Third Street. They said that is correct, no connection to Northern or Boyer.

Mr. Shivers said the Prairie Land Estates preliminary plat was approved in 2007 and connected to Second then turned northwest and connected to Third. He said only the lots along Northern and Third were final platted. He said the applicant chose to include this area on the final plat.

Commissioner Leason asked if they originally planned to put a duplex on Lot 10. Mr. Lagaly said yes.

B. Discussion by Planning Commission

C. Motion

Commissioner Stewart moved to approve the preliminary plat of the Deer Run Addition as presented with adjustment to consider leaving Lot 10 as presented under previous platting, seconded by Commissioner Hackler.

Roll Call Vote

Steve Fellers	Y
Scott Hackler	Y
Frank Hughes	Y
Scott Leason	Y
Brad Long	Y
David Stewart	Y
Kelly Tetrick	Y
Gerald Watson	Y

The motion passed (8-0).

ITEM NO. 3 – CASE NO. 21-02-PLAT: CONSIDERATION OF THE FINAL PLAT OF BERNITA’S ACRE ADDITION.

A. Presentation of Request

Mr. Shivers said plat was done in reverse order, the property has three homes. He said the Subdivision Regulations allow the Planning Commission to approve plat variances in specific circumstances. Mr. Shivers said they are requesting two. The first is to reduce the minimum lot width on Lots 1 and 2 to 49.37 feet and the second to allow the Lot 3 to access a public street via access easement.

Roger Cutsinger, Savoy Company, said these are existing homes and quite old. The owner would like to sell them. He said there is a permanent ingress/egress easement by deed to allow access to the rear house.

Mr. Cutsinger said the lot is on S. Topeka just north of Finney.

Chairman Tetrick asked what the minimum lot width is. Mr. Shivers said 70 feet but many lots from this time period are 50 feet wide. Mr. Shivers said maybe these front to lots were at one time around 50 feet wide.

Commissioner Long asked about minimum depth. Mr. Shivers said he would check. Mr. Cutsinger said they meet minimum lot square footage.

Commissioner Stewart asked if the ingress/egress easement is already in place. Mr. Cutsinger said it is in place.

Mr. Shivers followed up on Commissioner Long’s question about depth, he said the minimum lot depth is 100 feet.

B. Discussion by Planning Commission

C. Motion

Stewart moved to approve the final plat of Bernita’s Acre Addition as presented with the following two variances: to reduce the minimum lot width on Lots 1 and 2 to 49.37 feet and to allow Lot 3 access to a public street via access easement, seconded by Commissioner Leason.

Roll Call Vote

Steve Fellers	Y
Scott Hackler	Y
Frank Hughes	Y
Scott Leason	Y
Brad Long	Y

David Stewart	Y
Kelly Tetrick	Y
Gerald Watson	Y

The motion passed (8-0).

4. OLD BUSINESS

5. STAFF ITEMS

6. ADJOURNMENT

The meeting was adjourned at 8:20pm.